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ABSTRACT

The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly in 1980, and signed by President Carter shortly thereafter. For the past decade, however, the Convention has been pending before the Senate. This hearing was part of the proceedings in which the Senate provided advice and consent on whether a treaty should be ratified. This document contains the statements and testimonies of individuals and organizations concerned about the Convention and its proposed adoption. (DB)

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CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

AUGUST 2, 1990

Printed for the use of the Committee on Foreign Relations

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CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (EX. R, 96-2)

THURSDAY, AUGUST 2, 1990

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:28 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell, Sarbanes, Cranston, Kerry, Simon, and Boschwitz.

The CHAIRMAN. The committee will come to order.

I apologize to our witnesses and guests because of the rollcall vote that delayed us.

The CHAIRMAN. This morning, we are holding a hearing on the Convention on the Elimination of All Forms of Discrimination Against Women.

The Carter administration took a big step toward the promotion of equal rights for women by signing the convention in July 1980, 6 months after it had been adopted by the U.N. General Assembly.

For the last decade, the convention has been pending before the Senate because the Reagan and Bush administrations have had it "under review." For the Reagan administration, "under review" was a euphemism for "no action." Obviously, without administration support, a treaty stands almost no chance of being approved by the Senate. Moreover, even with the Senate's advice and consent, the treaty would not go into effect without presidential action in the form of ratification.

I am hopeful that the present administration will have a different perspective, and believe that it does.

This administration has had more than 18 months to review it. That is more than enough time to determine whether and under what conditions the United States should ratify this treaty.

To my mind, the time for reviewing is over and now it is time to act. With the cooperation of the administration, the committee will be able to mark up the resolution of advice and consent to ratification in the fall. This is not a prediction; it is a hope. To fill it, we need the cooperation of the administration.

The long overdue ratification will make the U.S. commitment to eliminate discrimination against women at home and abroad clear. This morning, the administration has an opportunity to say "yes" or "no" to ratification. I, for one, hope the answer is "yes."

The convention covers a broad variety of areas, some of which are not subject to U.S. law. I recognize, therefore, that it may be necessary to incorporate some conditions in the instrument of ratification.

Our committee is prepared to work with the administration to formulate these, and I hope the administration will be able to give us an indication this morning of what the problems are that need to be resolved.

We are privileged, too, to have a number of Members of Congress testifying this morning. But before turning to them, I will turn to my colleagues on the committee and ask Senator Cranston if he has an opening statement.

Senator CRANSTON. Yes, I do.

I thank you very much for convening this hearing.

I want to commend Senator Pell for calling this hearing on the Convention on the Elimination of All Forms of Discrimination Against Women.

I know that Chairman Pell and others on the Foreign Relations Committee share my view that the convention is an important international human rights instrument which represents both an outstanding accomplishment of the United Nations system and a significant advance in the development of international human rights laws.

It is high time we heard from the Republican administration as to where it stands on this treaty. It is important that the formal process necessary for the convention's ratification be carried to fruition.

I am delighted that this is one of the priorities of the Foreign Relations Committee under Chairman Pell's leadership.

The U.N. Convention on the Elimination of All Forms of Discrimination Against Women sets out in legally binding form internationally accepted principles and measures to achieve equal rights for women. It also recommends temporary special measures to speed the achievement of equality between women and men. Measures in the convention provide for equal access for women and men in political and public life, including the right to vote and run for public office, as well as equal access in education and employment.

The convention underlines the social services needed in order to combine participation in public life with family obligations.

As of today, 103 countries have ratified or acceded to the U.N. Convention on the Elimination of All Forms of Discrimination Against Women, including our neighbors to the north and south, Canada and Mexico, as well as Australia, Brazil, Great Britain, France, the Federal Republic of Germany, Japan, the People's Republic of China and the Soviet Union.

Unfortunately, after almost 10 years since joining as a signatory, the United States has yet to ratify the convention and thereby make the formal commitment necessary to obligate our Government to its provisions. This hearing is an important step toward achieving this goal.

As one of my constituents, Raine Eisler, has described in her article, entitled "Human Rights: Toward an Integrated Theory for Action," the convention is a "missing link for the construction of an internally consistent theory of human rights that expressly re-

jects the traditional exclusion of women's rights from the purview of international rights activities." Clearly, no policy in support of human rights is complete without the explicit inclusion of the rights of women. Ratification of the U.N. convention means the establishment of a more equitable human rights policy.

Again, I applaud Chairman Pell for his leadership on this issue. I look forward to working with him and my other colleagues on the committee in achieving ratification.

The CHAIRMAN. Thank you very much, Senator Cranston.

Senator Simon.

Senator SIMON. I thank you, Mr. Chairman, for holding this hearing. I think it is important that we move ahead.

Let me add that we are, unfortunately, marking up in the Judiciary Committee right now. So, I am going to have to be going back and forth between the Judiciary Committee and this committee.

This is a document that is sweeping in nature. It calls on the United States and other nations to do a lot of things that we are not doing, and that discrimination is everywhere. Senator Mikulski has been leading in this area of health research.

We were working on it yesterday, as a matter of fact, one of these so-called little bits of discrimination. We all know about the test of 20,700 on aspirin and how aspirin can protect and prevent heart disease. What most people are not aware of is that the 20,700 people tested in the aspirin test were all men. No women were included.

That took place here in the United States of America.

In some of the developing nations the discrimination against women is just appalling.

We ought to be leading. And yet, we are one of the laggards. Mongolia has approved this convention; the United States has not.

We are joining Albania and a few other countries in not approving this.

I applaud the nations that have approved it. I applaud the nations, including nations in the developing world, like Uganda, that really have made strides for women. The United States ought to be there.

I hope this hearing will not only prod all of us to do more. I hope the administration will listen and that we will move. We don't need to wait any longer than 10 years to approve this particular treaty.

Thank you, Mr. Chairman.

[The prepared statement of Senator Simon follows:]

PREPARED STATEMENT OF SENATOR PAUL SIMON

The United Nations Convention on the Elimination of All Forms of Discrimination Against Women, which was negotiated and submitted to the Senate under the Carter administration, has languished for 10 years without the active support of either the Reagan or Bush administrations. With democratization flourishing around the globe, we can be most proud of our leadership as a free democracy if we adhere to the vision and goals set forth in this convention. That vision encompasses full freedoms for women in legal, employment, educational, marital, financial, and political life. The convention also recognizes the special problems of rural women, an area of particular concern with respect to developing countries. And the modification of social and cultural patterns prejudicial to women is called for in the convention.

Over 100 countries have ratified or acceded to the convention. We should be among them.

The convention vindicates our own principles of justice and equality. The Carter administration's legal analysis concluded that there were no serious legal conflicts between U.S. law and the convention provisions that would require specific U.S. conditions to the convention. The Carter administration did, however, recommend that specific reservations or legislation might be necessary to resolve issues relating to Federal-State control and division of powers, the obligation to eliminate discrimination (with respect to military registration, service benefits, public accommodation, and health care), and issues relating to comparable worth, which have not been resolved through litigation.

In the United States and the rest of the world, we must address the feminization of poverty; we must give women the financial, resource, and emotional support they need to become self-sufficient, and provide a strong and financially stable home for their children. In the United States we have programs that have proven to be highly successful in helping women move out of poverty—WIC, Head Start, provisions of the Job Training and Partnership Act, minority set-asides and other small business programs targeted to women. We must be sure that these programs have sufficient money to make up for years of page budgetcutting, and once again bring services and hope to those women trying to better their lives for themselves and their children.

Last week, the House was unable to overturn the President's veto of the parental leave bill. We are the only industrialized nation without a parental leave policy; in fact the majority of developing countries have some type of parental leave policy. We force far too many families to choose between having an adequate income and having and raising children. We must make these goals complementary.

Just yesterday, I joined Senator Mikulski in introducing the Women's Health Equity Act, designed to address blatant discrimination against women in health research. In some cases, medical research studies have been conducted without including any female subjects. That must change if we are to provide top health care for women.

For 10 years, the U.S. Congress has been unable to approve legislation reauthorizing our family planning programs. This is unacceptable. Our domestic and our international family planning programs are in shambles because too few in leadership positions have been willing to stand firmly behind providing family planning education and counseling to key groups like poor women, teenagers, and families in developing countries. We know how successful family planning programs can be and how they give women more control over their own lives.

In the developing world, progress for women and full governmental support of women is essential if those nations are to succeed in their development and rise to their full potential. The contribution of women is still largely, statistically invisible. Women are heavily involved in small-scale agriculture and the informal sector. Their work is often unpaid, and if paid, undervalued, although women have borne a large part of the burden of economic adjustment. One out of every three households in the developing world is totally dependent on a woman for its livelihood. Women grow 90 percent of food, contribute 60 percent of the labor for cash crops, and run 70 percent of small enterprises, but are poorer today than they were in the 1960's. Women in developing countries work twice as many hours as men for one-tenth of the income. Women make up two-thirds of the world's illiterate people. And women in poor, rural areas spend 2,000 to 5,000 hours a year just transporting water, fuel, and goods to and from their homes. Lack of easy access to water alone can almost revolutionize the daily pattern of a woman's life in the developing world. Every aspect of development, therefore, affects women and should be designed with their participation.

Africa includes 22 of the world's poorest countries. Between 1970 and 1985, Africa's abject poor rose by 75 percent to about 270 million, one-half the population of the continent. If the current trend continues, by 1995, 260 million of the 400 million Africans who will be living in poverty will be women. In Benin, Cameroom, Nigeria, Malawi, Mali, and Mozambique, one out of five 15-year-old women dies before she reaches 45 years of age for reasons related to pregnancy and childbirth. In East Africa, women have a 16-hour workday growing and processing food, gathering water and fuel, caring for their children, and performing other tasks. And in South Africa's so-called homelands, women walk 3 to 5 miles every other day to collect cords of fuelwood weighing up to 65 pounds. Poor African women suffer from poor shelter, malnutrition, disease, illiteracy, overwork, and high maternal and infant mortality rates. Rural women suffer some of the heaviest of these burdens.

Women are still a minority in the public sector, and poor urban women, who have little professional training, find themselves most often in low-wage, low-status "pink-collar" jobs. In the informal sector, African women generally make substantially less than men, and in some extreme cases have resorted to illicit activities to survive. Moreover, the obstacles of tradition make the task of protecting women's rights even more difficult.

There is a little good news, however. In the newly independent nation of Namibia, the 5 women on the 72-member constituent assembly were actively involved in drafting that nation's constitution, which recognizes that women have "suffered special discrimination" and must "be encouraged and enabled to play a full, equal, and effective role in the political, social, economic, and cultural life of the nation." But the task in Namibia, as in all nations old and new, is to realize the goals and vision of the this convention.

Uganda appears to be the most progressive on the continent concerning women. Under President Yoweri Museveni's leadership, after 20 years of war and brutality, the nation is moving to rebuild itself and is promoting women's rights in the face of entrenched attitudes of a male-dominated society. Each of the 34 parliamentary districts has an at-large seat reserved for a woman, and women are Cabinet members, including the vital post of the Ministry of Agriculture. For over a year in Uganda, the Uganda Association of Women Lawyers has gone to women in the countryside to inform women about inheritance rights, property rights, divorce law, and other legal rights. Although little has changed, new attitudes are beginning to emerge.

U.S. leadership in upholding the full rights of women is one of the most important steps we can take to support women, not only in this Nation, but in all parts of the world. I hope that the administration will move quickly and vigorously to support this convention.

Mr. Chairman, attached to my statement are a number of articles on the status of women in various parts of the world, which I ask be entered into the hearing record with my statement.

THE FEMINIZATION OF POVERTY

(By Daphne Topouzis)

As poverty levels in Africa continue to worsen, new evidence indicates those getting poorest fastest are women. While reflective of the continentwide economic decline, the impoverishment of women is also due to governmental neglect of women, drastic cuts in social spending through structural adjustment programs, and cultural denigration of women's role in society.

An alarming trend with potentially devastating economic, social, and environmental consequences is developing across Africa, with evidence showing that nearly two-thirds of Africa's fast-growing, poverty-stricken population consists of women. The picture becomes bleaker considering that between 1970 and 1985, the number of Africans living in abject poverty rose by 75 percent to about 270 million, or one-half the population of the continent, according to the International Labor Organization.

Poor shelter, malnutrition, disease, illiteracy, overwork, a short life expectancy, and high maternal and infant mortality rates mark the lives of the poorest of poor women and their dependent families. Poverty is growing faster in Africa than in any other part of the world. Even more alarming, perhaps, is the fact that the feminization of poverty is becoming increasingly structural, advancing well beyond the reach of policymakers and development projects. As a result, it is becoming virtually impossible for women to escape the cycle of crushing poverty in which they are entrenched.

If this trend is not reversed, however, about 400 million Africans will be living in absolute poverty by 1995, argues the newly released UNDP 1990 Human Development Report, and up to 260 million could be women.

The feminization of poverty is only beginning to be recognized as a pressing problem in Africa and elsewhere in the world, and there are as yet no statistical indicators or figures available to help identify the magnitude of the crisis. At best, studies on poverty refer to it in passing, but more often, they fail to appreciate the ramifications of this shift in the pattern of poverty on overall economic development,

The reasons behind the increasing concentration of poverty among women in Africa are as varied as they are complex. A combination of prolonged drought and the debt crisis have triggered large-scale male motions to the cities, leaving one-third of all rural households headed by women. In some regions of sub-Saharan

Africa, up to 43 percent of all households are headed by women, according to the U.N. 1989 *World Survey on Women in Development.*

This phenomenon is transforming the family structure and socioeconomic fabric of African societies across the continent, placing additional financial burdens on already poor and overworked women. Women heads of households tend to have more dependents, fewer breadwinning family members, and restricted access to productive resources. "Female members of a poor household are often worse off than male members because of gender-based differences in the distribution of food and other entitlements within the family," adds the *1990 Human Development Report.*

The poverty crisis has been further aggravated by ill-fated agricultural policies or a neglect of agriculture by national governments, rapid population growth, and pressure on land available for cultivation—all of which have contributed to declining productivity and food consumption in many African countries. Between 1980 and 1985, per capita income in Africa declined by 30 percent, taking into account the negative terms of trade. The first victims of food shortages and famine tend to be women with young children, which is not surprising, considering that just under one-half of all African women and 63 percent of pregnant women suffer from anemia.

The adverse effects of the economic recession and remedial structural adjustment programs should be added to the list of factors that have contributed to the impoverishment of women. Structural adjustment has in many cases increased unemployment in the cities, and women are again the first to be laid off in the formal sector. Austerity measures have also decreased women's purchasing power and removed subsidies on basic foodstuffs. Thus, already overworked women have no choice but to work even longer hours to keep their families afloat, often at the expense of caring for their children and their own health. According to the U.N. Fund for Population Activity's State of the World Population 1990, rural African women tend to have more children in order to lighten their load with food production.

And last but not least, armed conflicts in Sudan, Ethiopia, Angola, Mozambique, and civil unrest in several other countries have left thousands of women widowed, displaced, or abandoned to a life of permanent emergency as refugees: An estimated two-thirds of the 5 million adult refugee population on the continent are women. "When armies march, there is no harvest," reads one African saying. As a result, women refugees often become almost totally dependent on relief from international organizations whose resources for them are currently on the decline.

THE PLIGHT OF RURAL WOMEN

From near food self-sufficiency in 1970, Africa over the past two decades has witnessed a marked decline in food production and consumption per person, while real per capita access to resources has decreased accordingly. African women, who produce, process, and market over 75 percent of the food, suffer greater deprivations than men and continue to be ignored by national policymakers and international aid organizations.

Thus, even though the past 2 years have seen bumper crops in many Sahelian countries, women farmers have not benefited from this, and the poorest among them are still unable to grow enough food to sustain their families. One of the reasons is that, as a whole, they remain excluded from access to improved technology, credit, extension services, and land. Landless, unskilled, and illiterate rural women often live precarious lives on the edge of impoverishment, regardless of how hard they work.

Women in developing countries work twice as many hours as men for one-tenth of the income. In East Africa, women spend up to 10 hours every day growing, processing, and preparing food, gathering fuel and water, and performing other house hold chores, in addition to caring for their children and the extended family. In Malawi, women put in twice as many hours as men cultivating maize, the main cash crop, and the same number of hours in cotton, in addition to doing all the housework.

In South Africa's homelands, women walk from 3 to 5 miles every other day to collect fuelwood weighing up to 65 pounds, according to *Apartheids Environmental Toll,* a report released by Worldwatch Institute in Washington, DC. Environmental degradation affects women directly, as they have to walk longer distances to fetch fuelwood and water. In turn, impoverished women—most of whom live in ecologically fragile areas—have little alternative but to continue degrading their environment in order to survive. Poverty, overpopulation, and environmental degradation are not only inextricably linked, but they continually reinforce one another.

URBAN WOMEN IN "PINK-COLLAR JOBS"

Women are still a minority in the public sector in Africa: In Benin and Togo, 21 percent of public sector employees are women, while in Tanzania, their share in formal employment was 15.6 percent in 1983. Poor urban women have little professional training. As a result, they are reduced to low-wage, low-status. or "pink-collar" jobs, which include clerical, teaching, and social services. In Kenya, 78.9 percent of the female workforce in the service sector is employed in pink-collar jobs, while only 6.1 percent is employed in high-paying jobs. The economic crisis has had a profound effect on these women, with unemployment rising by 10 percent annually in the period 1980–85. In Botswana and Nigeria, the rate of unemployment among young women under 20 was 44 and 42 percent respectively in 1987, as opposed to males of the same age group, at 23.5 and 22.2 percent. For those who retained their jobs, wages were often slashed by one-third.

The vast majority of urban women work in the informal sector where earnings are meager, and there is no legal protection or job security: In Ghana, 85 percent of all employment in trade in 1970 was accounted for by women; in Nigeria, 94 percent of the street food vendors are women. These women earn substantially less than their male counterparts and often live on the edge of poverty, so that a slight deterioration in economic conditions, such as price rises of essential foodstuffs, can directly threaten their survival, as well as that of their families. In Dar es Salaam, argues the *1990 Human Development Report*, poor women had to cut back from three meals a day to two. In extreme cases, poor urban women have resorted to begging, prostitution, and other illicit activities in order to survive.

STRUCTURAL ADJUSTMENT

Structural adjustment programs prescribed by international financial institutions have largely failed to integrate women into economic development and have imposed drastic cuts in education and health services, thereby exacerbating existing inequalities and marginalizing women further. A recent study conducted by a group of experts set up by the Commonwealth Ministers Responsible for Women, entitled "Engendering Adjustment for the 1990's," argues that women in developing countries "have been at the epicenter of the crisis and have borne the brunt of the adjustment efforts."

Particularly alarming is the fact that for the first time in many years, maternal and infant mortality rates are beginning to rise and girls' school enrollments are starting to fall. "If you educate a man, you simply educate an individual, but if you educate a woman, you educate a family," said J.E. Aggrey, a Ghanaian educator. Few, however, have taken this message seriously: Illiteracy in Africa is four times as high among women as among men, and the higher the level of education, the lower the percentage of girls. In Cote d'Ivoire, 82 women among 707 students completed university studies in 1983. In 13 out of 18 African countries for which figures are available, expenditure per pupil in primary school decreased dramatically, up to 40 percent, between 1980 and 1984–85.

Women's health has also suffered severe setbacks as a result of structural adjustment programs. In Nigeria, where health fees and social service subsidies were slashed, health care and food costs have spiralled by 400 to 600 percent, according to a recent report in *West Africa*. About 75,000 women die each year from causes related to pregnancy or childbirth in Nigeria alone—that is, one woman every 7 minutes, according to the same source. In Benin, Cameroon, Nigeria, Malawi, Mali, and Mozambique, one out of five 15-year-old women dies before she reaches 45 years of age for reasons related to pregnancy and childbirth.

WOMEN IN DEVELOPMENT

Between 1965 and 1986, women were neglected by development planners largely due to misconceptions and misdirected efforts and as a result, hardly benefited from development aid, argued a 1988 World Bank report. Thus, it was taken for granted that all households are male-headed, that women do not work, and that by increasing the income of a household, everyone will benefit. Rural development projects geared toward women tended to emphasize training and health, hygiene, nutrition, and child care, neglecting to help women improve their capabilities as farmers. Women were barred from access to credit and improved technology because it was the men who were addressed as the real producers.

A case in point is the Sedhiou Project in Senegal, which provided credit to cooperatives but refused female membership. In a British-funded cotton growing project in Bura, Kenya, women have no access to plots where they can grow food, and malnutrition has increased among their children; at an integrated rural development

Project in Zambia, women have little time to grow food and care for their families because they have to work long hours on their husbands' cash crop, to mention but a few examples.

The devastating drought, famines, and the economic crisis of the 1980's pressured African governments and development organizations into recognizing the vital role women play in economic development. Most African governments now have a ministry, bureau, or department dealing with women's affairs and some legislative adjustments have been made to improve the socioeconomic status of women. These initiatives, however, have not reached the most vulnerable and impoverished of women, not least because their needs are multisectoral and are unlikely to be met by a single government department, while being ignored or given token recognition by other ministries.

In essence, women's economic contributions remain largely overlooked and equitable development strategies have yet to be translated into effective plans of action. In many countries, African women still cannot own the land they cultivate or get access to credit. In Lesotho, women lack the most basic legal and social rights: They cannot sign contracts, borrow money, or slaughter cattle without their husbands' consent.

Sustainable development has to become synonymous with equitable development, and economic recovery will only come about if the feminization of poverty is tackled as an economic and social problem rather than as a purely developmental or exclusively a women's problem. There are some encouraging initiatives in Ghana, Tanzania, and Nigeria, where farmers' cooperatives are obtaining loans for poor women from local banks.

However, a formidable task awaits national governments and development workers: Access to productive resources such as land, capital, and technology, fair wages, training, and education and basic health care are essential conditions if African women are to break out of the vicious circle of poverty and underdevelopment. Equally pressing, however, are policymaking and legislative reforms to combat discrimination against women and change male attitudes regarding women's contributions to social and economic life.

FOR THE OPPRESSED SEX, BRAVE WORDS TO LIVE BY

(By Jane Perlez—Special to The New York Times)

BUWUNGA, UGANDA—The women of the village here took a rare break from their afternoon chores, put on their best dresses and walked up to 7 miles to come and hear about something revolutionary: women's rights.

Under the shade of an ancient mango tree, Sarah Bahalaaliwo, the chairwoman of the Uganda Association of Women Lawyers, spoke about inheritance rights, property rights, and divorce law. Don't be fooled, she told the crowd of women seated on the grass. Women can own property. If you inherit land from your father or earn enough to buy some yourself, register it in your own name, not your husband's, she advised.

A husband, she said, may try to take all the household possessions during a divorce or separation.

"He might beat you up, but don't give in," Mrs. Bahalaaliwo said with a bravado acquired from years of being a lawyer and businesswoman in Kampala, the capital. "Fight back."

To this, the women laughed in approval. Sitting on a bench at the edge of the crowd, a group of men who had been invited to sit in smiled nervously.

A TRADITION OF SERVILITY

These are words rarely heard in rural areas of Uganda, where, as in many parts of Africa, 14-year-old girls are married off for a dowry of * * *. It is the women, not the men, who do the backbreaking physical labor, lugging enormous containers of water on their heads or on their backs, carrying firewood, digging in the fields, cooking and caring for a multitude of children.

In this southern region of Uganda where the Baganda are the dominant people, the submissiveness so common among of African women is compounded by cultural traditions that dictate that a woman kneel when meeting a man, even her own son.

The plight of African women and their lack of reward for their overwhelming contribution to food production has prompted numerous calls for reform. Little has changed, but there are signs of new attitudes.

A PROGRESSIVE GOVERNMENT

For more than a year, a group from the Uganda Association of Women Lawyers has been trying to inform women in the countryside, where 80 percent of Ugandans live, that life doesn't have to be this way.

A few months ago, New Vision, the main newspaper in Uganda, ran a cartoon lamenting a woman's life. It showed a woman as an ox, being driven by a husband, whip in hand.

The Ugandan Government of President Yoweri Museveni, struggling to rebuild the war-ravaged country after 20 years of brutality, is one of the most progressive on the continent on the subject of women.

Each of the 34 parliamentary districts has an at-large seat reserved for a woman. Women are members of the Cabinet, and the Ministry of Agriculture, one of the most vital posts, is held a woman.

But in a male-dominated society where polygamy is common, Mr. Museveni's sentiments are difficult to translate on a broad scale.

Thus, the Lawyers Association has found it necessary to publish a leaflet entitled "Wife-Beating Is Against the Law."

The leaflet warns women not to believe that it is part of Ugandan custom to accept a beating. It tries to demolish the idea, prevalent among some women, that a woman is beaten as a sign of love. "In traditional societies a woman was treated with great respect and beating a woman was despised," the leaflet says.

AIDS EPIDEMIC A FACTOR

Reflecting the devastation that AIDS is causing in Uganda, particularly in this southern district of Masaka, where Buwunga is located, many of the questions at the lawyers meetings are about the social consequences of the disease. Indeed, the local women explained that the turnout at the meeting under the tree was low because many women were attending one of the half dozen funerals held that day, and most days, for AIDS victims in the area.

"If you advise your husband to use a condom, he may beat you and send you away," a rural woman asked. "Where do you go?"

"Take life into your own hands," a lawyer, Dora Kanabahita, responded. "You have a brain. You've got hands. Don't rely on the man to provide for you."

A man from the bench on the sidelines rose and asked a question. Traditionally, he said, men married as many women as possible, but these days the practice encouraged the spread of AIDS. What should men do?

FATALISM AND SEPARATISM

Mrs. Bagalaaliwo suggested that now was the time to ask whether the practice of multiple marriages is a good idea. Anyway, she informed the questioner, a new law aimed at curbing the spread of AIDS was about to be debated in parliament. If passed, it would send a man to jail for life if he had sex with a girl under 15. One of the consequences of the AIDS epidemic is that men are seeking ever-younger sexual partners in hopes that the girls have not yet been exposed to the disease.

A fragile woman expressed what appeared to be a widespread fatalism about AIDS. "We realize our men have AIDS after it is too late, so we live normally with them because we know we are going to die," she said.

Such behavior, Mrs. Bagalaaliwo cautioned, is not responsible.

Later, out of earshot from her class, she said, "Women are really scared of AIDS." They know, she added, that when a woman is no longer able to have children, the men will turn to a younger woman anyway. "So now some of the women were asking, 'Why don't we just live alone?' "

In Ugandan society, that is a truly revolutionary idea.

"PROTECT THE WIDOW"

(By Ruth Ansah Ayisi)

Nora Mumba had not been prepared for what she describes as "the most traumatic time of my life." She had enjoyed a relatively high standard of living with her three children and Stanley, her husband of 9 years, until one night 3 years ago.

Mumba had been particularly exhausted that night as she lay her head on Stanley's chest, who she thought had finally fallen asleep. But a few minutes later, a nurse woke her up to tell her that Stanley had died. "Everything was blurred. I had

no real sensation," said Mumba. "I never expected him to die, I had always kept hoping."

She had nursed Stanley for over a year and had seen him change from a healthy 196-pound man who loved boxing and squash to a mere 112 pounds, a man who barely had enough energy to climb a flight of stairs. Stanley, a law lecturer at Zambia's national university who had gained his Ph.D. in England, had suffered from a series of infections. A combination of tuberculosis, leukemia, and a serious ear infection eventually killed him, leaving Mumba a widow at the age of 30 with three children under the age of 10 to support.

Yet, another shock was in store for Nora Mumba. Just a few days later, her inlaws took most of the possessions that she and Stanley had bought together. They took the car, the refrigerator that Mumba had shipped from England, a camera with film containing the last picture of Stanley alive playing with his children, a hi-fi system and their records, Stanley's clothes, including his graduation gown which Mumba had hoped their children would one day wear, and even their suitcases. "When we had to leave the house, we had to pack in sacks," she said. "They had almost stripped the house clean."

Mumba's experience is a stark example of problems women face in southern Africa—caught in a trap between traditional practices and urban lifestyles. Perhaps it is most evident in Zambia, where almost one-half of the country's 8 million people live in urban areas. Rut even in Zimbabwe, southern Africa's youngest nation, extended families are broken up and norms and customs are eroded as more people flock to towns in search of jobs.

Traditionally, if a member of the family was wronged, other members would advise what was the best recourse. Today, more women are isolated.

To take legal action is a complicated procedure because in southern Africa there are two legal systems, customary and general law, a legacy of the colonial era. Most women's lives in the region have been governed by customary law. Under customary law, if a man dies without making a will, his wife cannot be the legal heir to his property.

Among most ethnic groups in Zambia and Zimbabwe, the deceased's eldest male relative inherits the home and property and can marry the widow and take her children into his house so they are not destitute. But today, as an increasing number of women live in urban areas, have a more independent life from their extended family, and have bought their own possessions, the custom has little relevance.

The director of the Catholic Church's Justice and Peace Commission in Zimbabwe, Nicholas Ndebele, says part of the problem is that the traditional concept of family and its legal definition differ dramatically. "There is a conflict between traditional values and new laws. In Western culture, a man and his wife are an entity, but in African tradition, my family marries my wife's family. We're an extended family. If a woman's husband dies, a wife should be accommodated in the family. But if she refuses, she is voluntarily refusing to be part of that family."

But for many women like Nora Mumba, moving into the countryside to be supported by her husband's family is out of the question. She does not see her inlaws' actions as part of custom, but as "pure greed." She told her inlaws: "Anything you take out of this house, you're stealing."

Despite her double loss, Mumba, a university librarian, realized that her experience was by no means the worst. It was this realization that made her mount her own campaign both to make parliament pass legislation to protect widows and also to raise people's awareness about the problem.

"Perhaps one day Zambia will enter the 20th century," concluded Mumba in a letter to the *Times of Zambia* on June 21, 1986.

The letter made Nora Mumba a public figure. The Zambia Association for Research and Development (ZARD) an organization established in 1986 to look into the position of women, traced the letter to Mumba. ZARD had also been campaigning against "property grabbing," as it is commonly called. But it wanted a widow who had experienced it to speak out publicly. Over 200 people attended a meeting organized by ZARD in March 1987 on the inheritance problem. Mumba came out openly to tell Zambians about her experience. "They gave me 5 minutes to talk," she said, "but I talked for 20."

Mumba was given another opportunity to talk again last December, when she addressed a public meeting organized for the Ecumenical Decade of Churches. President Kenneth Kaunda, who was also on the panel of speakers, was so moved that he promised Mumba personally that a bill would be introduced in parliament this year to protect widows. The bill was introduced at the end of March this year. A crowd of over 50 women of all ages, wearing "Protect the Widow" tee shirts, bustled their way into parliament to hear the debate.

Under the new law, the deceased's property will be divided up, giving 20 percent to the widow or widower, 50 percent to the children, 20 percent to the deceased's parents, and 10 percent to other dependents.

But like other women campaigners, Mumba is aware that this law alone will not solve the problem. She would have liked the children to receive more than 50 percent. She also relied that many women will not take advantage of the new legislation. "It gives us something to work on," she said.

Now she plans to continue talking in public meetings whenever she has the opportunity, to lobby MP's about possible amendments to the new law when it comes into effect, and she would also like to set up a widows' association, so that widows have the chance to share their problems and give each other advice.

Mumba is also seeking a publisher for a book she has written on her experiences. "Initially, I decided to write the book because I felt as if the world had turned against me. I needed an outlet," she said. "But now I feel that it might be comforting for other widows to know what I have been through." Changing the law is the first step, said Mumba, but changing attitudes and increasing support for widows is just as important.

Unlike in Zambia, Zimbabwean President Robert Mugabe's government passed a series of laws after independence in 1980 to uplift women's status. Although "we've come a long way since independence," said Amy Tsanga, a lawyer, "laws have run ahead of the way people see things. People are particularly slow to change their attitudes about family-related matters."

Among the most contentious family-related laws passed by the government is the 1987 Maintenance Amendment Act. Women's rights to maintenance have become a major campaigning issue in southern Africa. Men have written angry letters to Zimbabwe's daily newspapers accusing women of making a business out of maintenance claims. They say that women are able to buy expensive clothes and cars out of maintenance claims.

But most women only receive about $20 per month for each child, barely enough to cover food. And the process of making the claim can be tiresome. "The bureaucracy can take up to 5 years, at the time you need it most, it's not there," said Viola Sambe of the Citizen's Advice Bureau in Harare. "Women go to the magistrate court only to find their file has been lost. Then by the time that they have found it, the father of the child has left his job and the woman can't trace him."

Possibly one of the most far-reaching and controversial acts passed to uplift women's status in Zimbabwe is the 1982 Legal Age of Majority Act, which recognizes women as majors along with men at the age of 18. Before, women lived as dependents of their fathers or husbands. Now a woman can open a bank account, take her own court action, and if she is the eldest family member, be a legal heir to her father's property.

But while legislation has helped some women, many are not aware of their rights or do not have the economic power to carry them out. Before independence in Zimbabwe, black women under Ian Smith's white minority government had limited access to education. Most stayed in the rural areas, working in the "Tribal Trust Lands." Now primary education is free for all, an important gain, but a large number of women still are unemployed or only earn the minimum wage (about $60) a month or less.

Being poor and unaware of her rights, Zimbabwean Ester Murwira, unlike Nora Mumba, accepted her new circumstances without protesting. Three years ago, her husband, George, fell off his bicycle on the way to work and was crushed under the wheels of a bus. Three days later, while Murwira was still trying to come to terms with losing her husband of 22 years, her stepson, Sebastian, piled all her possessions onto the veranda of her small house. "Now after the burial of our father you must no longer stay here," she said Sebastian, 45, told her. "We [the sons] are the right people to live here."

Discrimination Hurts

(By Michie Gitau—Kenyan jounalist and public relations consultant)

In Kenya—and in Africa in general—women are at the heart of economic and social development. They are traditionally responsible for primary health care, food, water, clothing, and the well-being of society. During a seminar on "The role of home economics in women's lives and health," held recently in Nairobi, Professor M'Mugambi, a former director of the Kenya Medical Research Institute, lamented that women in developing countries contribute more than two-thirds of the working

hours, yet they control less than 1 percent of the gross national product (GNP) in their respective countries.

Women account for one-half the food production in developing countries; perhaps 80 percent of Africa's food is produced by women. Cultivation and harvesting is only the first stage; twice as much time can be taken up by food processing and preparation. The time and energy required for these processes and for the fetching of fuel and water—which may involve, for example, a walk of 10 kilometers 3 days our of 4—rarely figure in national labor statistics.

The multiple problems that are responsible for undermining the health of women have been analyzed and studied, but according to Professor J.K. Mati, a senior population scientist with the Rockefeller Foundation, unregulated reproductive function, inadequate food intake, overwork, and a host of medical factors have militated against the well-being of women in Kenya.

Kenya's women have one of the highest fertility rates in the world today. Many women become pregnant at too early an age and continue having babies until a late age. This unfortunate situation is due to the fact that bigger families and a preference for sons is deeply rooted in the patriarchal tradition, and women have little say in the number of children that they can give birth to. Consequently women have so many children that this affects their health. Professor Mati notes that the situation becomes worse if one takes into account that many of the pregnancies occur among women whose health is already poor. This has led to high mortality among women, especially in the countryside. Maternal mortality in Coast Province, for instance, is 221 per 100,000 live births.

He adds that unplanned pregnancies have led to a high incidence of abortion. At the Kenyatta National Hospital alone, about 9,000 cases of clinical abortion are handled annually. Illegal abortion also ranks high among the reasons for hospitalization in many districts of Kenya.

One major reason for the high fertility rate in the countryside is the absence of contraceptives, or limited use of them, due to traditional beliefs that hamper proper usage of family planning devices. Even though the fertility rate is high in Kenya, infertility accounts for 60 percent of gynecological consultations at Kenyatta National Hospital. Childlessness is regarded as a disaster in many African countries, and large families are encouraged even in polygamous households.

Infertility frequently arises as a result of untreated cases of infection in the fallopian tubes and male reproductive ducts, says Professor Mati. Among women, 70 percent of infertility from infection is due to damage to the fallopian tubes. The infection is largely due to untreated or partially treated sexually transmitted diseases, especially gonorrhea, syphilis, and chlamydia. While these cases can be prevented through early diagnosis, the necessary basic services are lacking in the countryside.

Compared to the industrialized world, where each woman has an average of two children, in developing countries each woman has an average of four children. In industrialized countries, 70 percent of married women use family planning while the figure in developing countries is only 45 percent. Some communities marry off the girls at a tender age—below 14 years—but although this has been a matter of concern at various political circles, legal protection has not generally been accorded to the victims of early marriages.

Particularly among many communities in sub-Saharan Africa, discrimination has hurt women. Even apart from the lack of proper medical attention, archaic traditional beliefs and taboos have worked against the improvement of women's health. Some taboos forbid women from taking certain types of foods during pregnancy—just as the time when women require these vital foods. While increased health education is helping to avoid this problem in the towns, the rural woman, by custom, must forgo chicken, eggs, and other delicacies when she most needs good nutrition for the health both of herself and her child. The net result of such a situation is to raise still higher the infant and maternal mortality rates.

Women's New Equality

(By Colleen Lowe Morna)

Frieda Ipinge is a middle-aged woman who lives in Windhoek's sprawling, high-density suburb of Katutura, employed as a domestic worker by a white Namibian policeman.

A day before the country became independent on March 21, her boss told her she would have to work on that public holiday, because he would be entertaining some

white South African traffic police called in to help with the independence celebrations.

Before, Ipinge would have humbly submitted. This time, she thought twice about it. A single parent living in dismal quarters who had waited all her life for this special day, Ipinge—for the first time in her life—spoke back to her boss. "I am going to take my holiday," she told him, "because the law is on my side."

Namibian women indeed turned out in large numbers for the colorful independence celebrations. On the morning of March 21, women from all walks of life and social strata banded together and walked down Windhoek's main Kaiser Street carrying banners such as: "Discrimination Against Women Is Unconstitutional!" and 'The hand that rocks the cradle should also rock the boat."

Discriminated against by both colonial and traditional systems, separated by war, race, and ethnicity, Namibian women today face the future with more optimism than at any time in the past. No Namibian woman is under the illusion that the journey ahead will be easy. But compared to before, when the country fell under illegal South African occupation, the road certainly looks more clear than it has ever been.

Under the former government, Namibia was carved up into 11 ethnic "homelands," with the 6 percent white population owning 60 percent of the country's best land. Men had little option but to look for jobs in the towns, mines, and commercial farms.

A January 1990 U.N. report on women and children in Namibia underlines the lack of reliable statistical information on this subject as the country enters nationhood.

But in a preliminary survey, the report concludes that "the main obstacle has been that women, because of the war, the migratory labor schemes, or death, have often had to bear the sole responsibilities for their families. They have succeeded in that duty only by holding several jobs which, because of their lack of education, have been semi- or unskilled jobs, and therefore poorly paid."

Meanwhile, under the colonial system and traditional law, black women remained minors all their lives: first under their fathers, then their husbands, and finally their sons.

The key to change for Namibian women is the new constitution, approved by the country's 7-party, 72-member constituent assembly following U.N.-supervised elections here last November. Because most constitutions in the world came into being decades or centuries ago, before women took an active role in public affairs, they were written by men. Namibia is thus unique in Africa, and even the world, because the five women members of its constituent assembly played an active role in drafting the constitution.

One of these women, Pendukeni Ithana, secretary of the ruling South West Africa People's Organization (SWAPO) women's council, sat on the 21-member standing committee which hammered out the details of the constitution.

"In the corners, or even in public, some men made jokes that the women were trying to take over," recalls Ithana, who is also the country's new deputy minister for wildlife conservation and tourism. But, she adds, "that accusation did not come out clearly, because people were afraid of being called undemocratic, and this word 'democracy' was being sung through and through."

The first issue to be tackled was the legal status of black Namibian women. "On reaching the age of 18, every person, whether male or female, attains the legal age of majority, and is treated equally before the law," says Ithana, a former SWAPO military commander.

The Namibian constitution, she points out, is unique in referring to "he and she"—not just "he"—throughout. It also gives foreign men married to Namibian women the right to citizenship—a remarkable provision in African and even global terms.

Some women legal experts are disappointed that Namibia did not take the opportunity to fully incorporate the 1981 U.N. Convention on the Elimination of All Forms of Discrimination Against Women in the constitution. A similar U.N. declaration on children appears in the extensive chapter on "Fundamental Human Rights and Freedoms." As one U.N. staffer in Windhoek put it: "Everyone can agree on the rights of children. The rights of women are a trickier issue."

However, Ithana is quick to point out that the chapter on human rights makes some special mention of women. Under a section titled "Apartheid and Affirmative Action," the document says that it shall be permissible to have regard to the fact that women in Namibia have traditionally suffered special discrimination."

Women, this sections says, "need to be encouraged and enabled to play a full, equal, and effective role in the political, social, economic, and cultural life of the nation."

All told, says Monica Koepp, an educational psychologist and committee member of a nongovernmental organization called Women of Namibia, the constitution is "an amazing piece of paper." But she stresses, "It is still only a piece of paper."

Ithana agrees. Now that the constitution has been approved, she says, laws—like paid maternity leave and equal pay for equal work—have to be effected. While drafting a constitution that made everyone equal before the law, Ithana laughs, she herself earned 10 percent less than her male counterparts.

Even when these imbalances are redressed, there will be more deep-seated issues to tackle. Despite their role in drafting the constitution, women only constituted 7 percent of the constituent assembly, which has now become the national assembly. There is only 1 woman minister, and 2 women deputy ministers, in President Sam Nujoma's 32-strong cabinet.

Although women played an active role in the independence war, Nujoma recently paid tribute only to the contribution made by women in feeding the cadres.

Many women are disappointed by the fact that there is no specific ministry for women in the new government. "People explained it by saying that in other African countries, women's ministries have become a corner where all women's issues are pushed," says Lindy Kazamboue, who has worked with women's groups for years, primarily through the church.

Kazamboue does not buy that argument. "The problem is," she says, "if you have a good constitution and no affirmative action, nothing will ever change."

Namibian women themselves remain deeply divided along political and class lines. A church organization called Women's Voice, which used to provide leadership training, folded alter both SWAPO and the main opposition Democratic Turnhalle Alliance (DTA) accused the group of furthering the other's ends.

Similarly, the Women of Namibia—primarily a middle-class Windhoek-based group—ran into problems when it was accused first of supporting the DTA, and now of supporting SWAPO. Women have been in the forefront of the Parents Committee, set up to protest the treatment of SWAPO cadres suspected of being South African spies while in exile. Tension between this group and the SWAPO Women's Council has been plainly evident at various women's forums.

U.N. women participating in UNTAG, especially Eva Ahtisaari (wife of the special representative Martti Ahtisaari), are credited with helping to play a mediating role. The newly created Women's Desk of the influential Namibia Council of Churches has also been holding meetings to urge women to bury their political differences in the interests of the more crucial tasks ahead.

The development challenges that women face are indeed daunting. According to the U.N. report, one-half of all urban Namibian women are employed as domestic workers, earning an average of about $100 a month. A survey carried out by Kazamboue, who is also a social worker, showed not only a high proportion of single mothers in Windhoek's high-density suburbs, but also revealed that 64 percent of families living in sublet quarters are women and their children.

Rural women, who constitute the bulk of the country's farmers, have been condemned to subsistence farming, without any government support. "I have never been visited by an extension worker," notes Elizabeth Petros, a farmer whose husband works in the northern Namibian town of Ondangwa. "I have never received credit, I have never used fertilizer, and I have never produced any crops for sale."

In the towns of the northern Ovamboland province, which were most affected by war, women have been severely affected by the withdrawal of the 20,000-strong South African Defence Force, and disbanding of the 5,400-strong South West Africa Territorial Forces, as will as the hated, 2,500-strong Koevoet crack unit.

Despite the conduct of these soldiers, notes Helena Martin, who works for a private sector foundation that is supporting women entrepreneurs in Oshakati, they provided jobs for impoverished women. Many set up small bars called "Cuca" shops after a popular brand of Angolan beer. Others worked as cleaners or domestics for the army.

"There was no work here, only war work," Martin said. Because the past government paid no attention to community development, "women are at a loss as to what to do now," says Martin. "They have no skills or ideas of how to help themselves."

This, according to Ida Hoffman, a prominent member of the SWAPO Women's Council, is one of the most dangerous legacies of colonialism in Namibia. "The exgovernment did not only kill us in a big mass," she says, "they also blocked our minds so that we could not think clearly for ourselves."

The new government, she says, has promised a new life for women, but changes will only come about if women "stand up to be counted. Development starts with individuals. Change will only come if we first change ourselves."

For her part, Hoffman has turned her tiny matchbox house in Katutura into a day care center where she looks after 170 children each day while their mothers go to work. With independence on the horizon, a Norwegian nongovernmental organization donated $200,000 to build a dreamlike creche with classes and playrooms about 20 times the size of Hoffman's home.

Showing a visitor around the new premises, Hoffman chats excitedly about how she hopes to set up a reading room which parents and their kids can use during their leisure time, and how she has asked President Nujoma to open the new facility. As she opens each new door, Hoffman mutters under her breath, "we have a wonderful Lord, my dear, a wonderful Lord."

NEW TECHNOLOGY EASES AFRICAN WOMEN'S AGE-OLD WORKLOAD

(By Robert M. Press—Staff writer of The Christian Science Monitor)

Before dawn, the crisp air in this West African farming village is broken with a rhythmic pounding, a deep-sounding thump * * * thump * * * thump.

Women have begun the daily grinding of millet, slamming long, heavy sticks into hollowed-out tree trunks to crush grain into a coarse powder for their family's next breakfast, lunch, and dinner.

In between cooking meals, taking care of children, helping with the farming, and drawing water, most of these women will continue pounding until after sunset—just as their ancestors have done for generations.

But there is a new sound here competing with the age-old thumping of millet—the sound of a motorized water pump—and it's the pride of this village. It's also helping to lighten the women's workload.

For centuries, hand-grinding grain and transporting heavy loads of water have been two of the most time-consuming and backbreaking chores for the women of rural Africa. Slowly, this is changing in Senegal and other African countries. Increasingly, foreign and African governments and private aid groups are paying for wells with pumps and for motorized grinding mills in villages.

Here in Missira Wadene, about 250 miles southeast of the capital, Dakar, women used to draw their water by hand from a 200-foot well, using buckets fashioned from old inner tubes. But each bucket was so heavy that it took two or three women—or use of a donkey, cow, or horse—to pull it up.

Then, 3 years ago, Caritas, a relief and development agency funded by Catholic churches here and abroad, installed an aboveground water storage tank that is pumped full daily by a large motor, which draws water up a narrow, 400-foot shaft. Now, water gushes out of taps in the storage tank, from which the women of the village fill plastic buckets that they carry home on their heads.

But, as a 2-night visit in this village and interviews with rural development experts in Senegal show, using such equipment to lighten the heavy workload of Africa's women is proving to be more complicated than many experts first expected.

There are, for example, technical problems in drilling for water—especially in this dry, coastal nation—according to officials of Catholic Relief Services (CRS), an international relief and development agency. Often agencies install shafts only to find no water in that area or, in villages near the ocean, to discover that the water they tap is too salty.

One way to minimize such mistakes would be for the various private and government organizations drilling for water to share their data on water tables, ideally storing the information in computers, says David Orth-Moore, a third-year Peace Corps volunteer who works on water projects for CRS.

But an even larger problem is maintenance. Motorized water pumps have been built in many Senegalese villages by the government, only to be abandoned when they break down. And a Senegalese Government report says that while Senegal has built some 5,000 motorized grinding mills in recent years, about 2,000 are currently not operating.

The government often lacks the funds to fix them. Six months or more may go by before a government repairman arrives, says Abdoulaye Ndiaye, a Senegalese hydrologist who used to work for the government. And rural farming villages like Missira Wadene rarely have their own resident mechanics.

Also, villagers say they don't feel responsible for a pump or a mill that the government has built and paid for—even if it is on their own property. So when it

breaks down, "no one in the village wants to repair it," says Yousseph Ba, a Senegalese rural development expert with a private agency.

More and more, private and government organizations are asking villagers to help pay for keeping pumps and mills running. Before installing the water pump here in 1986, for example, officials of Caritas had villagers promise to contribute part of the construction and the expense of keeping it going. The local government also paid some of the startup costs.

Lamine Ngom, a member of the Village Development Committee says the same day the Caritas representative came to make the cost-sharing offer, residents held a public meeting and voted to accept the project and their responsibilities. They agreed to tax themselves—at a rate of about $40 a year per family—for water for people and livestock, says Ngom. The money will help pay for a replacement pump when the current one wears out.

Small as this amount may seem to an outsider, "It's very * * * difficult for everyone to make such payments," says Eloi Kama, president if the Village Development Committee. Farmers here have small plots and earn very little, Mr. Kama says. What little they do earn is made by growing peanuts. Most of the millet and corn is eaten by those who grow it. Although, Kama adds, the majority of families here are currently up to date on the water pump payments.

What other projects lie ahead?

"Perhaps the people who brought us the water will give us a mill," Kama says. But judging from the trend in Senegal and many other African countries, whoever offers a mill will probably require that the villagers help pay for running it. That on top of the water payments would be a heavy burden, Kama says.

[U.S. News & World Report, April 24, 1989]

The Old Sexism in the New China

(By Dusko Doder in Beijing)

For many months, hospital delivery rooms in Shanghai have welcomed 125 squalling boy babies for every 100 girls. This stunning variance from roughly equal boy-girl birth ratios in most of the world is no quirk of local genes. It results from the interplay of modern medical technology, ancient Chinese values, and Beijing government policies. Fancy new ultrasound equipment in city clinics tells the sex of fetuses with extreme accuracy. Since the time of Confucius, Chinese society has put an extraordinary premium on boys. So couples now limited to one child by population-control decrees are choosing to abort great numbers of female fetuses and try again. The attitude carries over in what awaits girl babies who are reluctantly allowed to come to term.

Shanghai's skewed birth ratio is just one of many signs that the status of women in China, never high, is again being seriously eroded by tradition and uncoddled but real official attitudes. China still, theoretically, adheres to Tse-tung's assertion that women should be equal because they "hold up half the sky." The reality is that discrimination is a fact of life for most females from childhood to retirement. Prospects for early or significant change are slim despite China's wide-ranging economic reforms, rising living standards and the open door for Western science and technology.

Feudal practices never completely disappeared under Mao, but they were reduced somewhat by idealism and by stern village-level Communist Party controls that persisted for years after Mao seized power. In rural China today, especially in poorer inland provinces, young girls are routinely kidnaped and sold for as much as $2,000 to brothels or to men who cannot get wives any other way. Tens of thousands of back-country women are carried off every year by well-organized rings of wife finders. Several million more are sold by their impoverished parents to the same exploiters.

Even in more sophisticated urban areas, women's complaints recall an era in the United States when "equal rights" were still a distant dream. Job opportunities, pay, and chances for advancement are markedly poorer for women than for their brothers or husbands. Factory and office managers argue that women deserve less pay because they are "worse workers," who will leave their jobs for many months at a time to bear children. They are undeterred by the absence of evidence for the claim that firing women workers increases productivity. Bright female university graduates say they are regularly passed over, in favor of men with poorer grades, when government-guided assignments are being made for desirable jobs in public

agencies or economic enterprises. One male Beijing University professor reports that even though women are usually the best students, male teachers routinely give them lower marks so men will be at the top of most classes.

Despite the widespread and sometimes chilling evidence of revived discrimination, the practice stirs little public comment. Lipservice is paid to the idea of equality, but laws to protect women's rights are not enforced. Blatant discrimination has not produced the women's-rights lobbies or public protests common in democracies. The docile All China Women's Federation, a quasigovernmental organization, hosts scores of teas and stage-managed visits to day-care centers for foreign feminist leaders yet does not challenge the local status quo. But one of the few people who do speak out bluntly on women's issues, Beijing sexologist Pan Suiming, insists that "there is a real war of the sexes going on," even if hardly anybody ever talks about it.

SPIES AND PLAYTHINGS

The official view of women for two millennia was established by Han Feizi, a third century B.C. prince who set down principles of government that were followed until the Ching Dynasty collapsed in 1912. In Han's doctrine, women were mainly useful as spies to infiltrate enemy nations, as playthings for rulers and warriors, and as the seedbed of future soldiers. All women were supposed to be obedient, serve their male masters, and learn to get along amicably with as many other wives or concubines as their husbands wanted to take on. An old folk saying warns that a wife who is not beaten every 3 days will "start pulling the tiles off the roof."

Systems of government have changed dramatically since then, but not China's deeply embedded traditions of male supremacy. Even today, Chinese offer congratulations to parents only on the birth of a son; the birth of a daughter draws condolences. Many girls still are abandoned or killed in infancy because females are seen as a drain on a family's resources. At home, daughters contribute less to family incomes than do sons. To marry, daughters need dowries that exceed the annual income of many peasant families. Then they take their earning power to some other household. Sons are further prized because only men can make the religious offerings considered essential, even in officially atheist China, to prevent the souls of ancestors from becoming lost.

Legally, at least, the position of women did improve after Mao's Communists took power in 1949. Many humiliating practices like polygamy were outlawed. There was strict enforcement of laws prohibiting footbinding, the painful process that turned feet into useless crippled stumps, which men considered the most erotic part of the female body. Education was officially opened to women on an unprecedented scale, though lack of funds and the attitude of parents kept many, particularly in rural areas, at home in the fields. Still, large numbers of women did go to work in factories and offices. Some concepts of sexual equality, as well as an overall egalitarianism, appeared in Mao's determination to make everyone wear the same drab, shapeless, sexless blue or gray tunics.

TOKENISM AT BEST

Women generally never made it into the political mainstream. One who did, with help, was Mao's wife Jiang Qing. Now, as his widow, she is in prison for leading the notorious "Gang of Four," who aimed to succeed Mao in power. There are no women on the 19-member Politburo and only 10 in the 175-member Communist Party Central Committee. Some women who do hold high-sounding positions have said privately that they are only "token dignitaries." In many rural areas, local party officials are so attached to old ways that they take the side of buyers of wives, even kidnaped ones, rather than that of the distraught women. In one case, officials of a village in Shandong province simply ignored a nationwide effort to find an attractive Shanghai University graduate school student who had been kidnaped and sold to an elderly local farmer.

Some analysts argue that the very reforms introduced by Deng Xiaoping have helped revive these dark elements of the past. True, reforms have opened China to many Western ideas and social attitudes. But they also have overturned many Maoist regulations, including those that enforced a degree of egalitarianism. New discrimination also reflects fading of the certitude that many people found in Mao's ideology, even when it was producing economic disasters like the "Great Leap Forward" in the late 1950's. As Maoist certainty vanished, traditional attitudes reappeared to fill the void.

FORCING EARLY RETIREMENT

The reemergence of traditional attitudes has not led to any reduction of women's rights under the law. But forces now at work make the government a coconspirator in the deterioration of women's rights. There is a marked decline in government concern for rural education. This mortgages female futures because boys are more apt to be sent to the schools that are available. Another challenge to female opportunity is the increasingly vocal assertion that women cannot contribute adequately to economic development. The authoritative *Peoples Daily* recently claimed that national growth is being hindered by women workers who are "physically weaker than men" and who pose "problems" for enterprises by taking leave to bear children. Some economists have proposed schemes to reduce the number of female workers by offering partial pay for early retirement or by forcing them to take unpaid parental leave.

The latest trends would increase the already wide disparities in pay and job prospects favoring men over women. Few Chinese salaries exceed $50 a month, and women are routinely assigned to traditionally low-paying jobs such as teaching. A woman factory worker can expect to earn about half as much as a man doing the same job and to be passed over time and again for promotion. She also can expect to do most of her family's shopping, house, work, and child care. Even so, she is better off than the country girls who make their way to cities to work in the thousands of private restaurants and small service shops that have blossomed under Deng's economic reforms. Many have fled arranged marriages or backbreaking farm work.

But they often trade one hell for another. Their hours are long, their pay less than $15 a month and their living conditions squalid. Many are raped by bosses or customers who know that they cannot complain or go to the police for protection because they are in the city without the required work and residence permits.

Ultimately, it may turn out that Mao's self-proclaimed "liberation" of women was complete illusion. Genuine feminist advances could yet come through the growing prosperity that Deng is trying to assure with his present policy of taking two steps forward, then one back. But for China's women, the backward steps now being taken appear, sadly, to be the course into the future.

Sex Education, 2,000 Years Late

AT LAST, BIRDS AND BEES 101

The questions seemed simple enough for city-bred young adults. What do the genital organs of the opposite sex look like? What is a female orgasm? Describe one position for intercourse. Does ejaculation harm a man?

But in a recent Chinese study, 30 percent of the urban women surveyed, and one-half the men—queried on the eve of their weddings—could not answer most of the four questions. In China, sexual enlightenment, like women's rights, is stuck in the feudal ages. Maoist China repressed sex, and even open affection, far more rigidly than it censured individuality.

Not that sex is something the Chinese aren't having. The country's population growth shows that. So does the revival of prostitution in Shanghai, where young women wait for customers behind the smoked glass windows of bars with names like "Charlie's Delight," and giggling schoolgirls in garish makeup offer themselves in downtown Jingan Park. One VD clinic closed in 1962 for lack of patients is open again and doing a brisk business.

Partly to combat illicit sex, partly to counter the impact of uninhibited Western publications now flowing into the country, the government is starting sex education in schools. It also is printing much more explicit guidance, The handouts replace a 1979 manual that amused even prim Chinese by advising young men to overcome the temptations of masturbation, or "hand lewdness," by remembering "the responsibility you should feel toward the socialist system." The new manual is hardly libertine. It advises newlyweds to have "very frequent sex right after marriage, that is, once every 3 to 7 days."

In private, an increasing number of urban young people discuss sexual matters with considerable frankness and knowledge. They are a small minority in a society that still surrounds sexual activity with all sorts of taboos and does not talk much about sexual equality because a great majority of Chinese consider females, in fact, to be second-class citizens. The traditional view goes back at least as far as Confucius, the sixth century B.C. philosopher and teacher whose ideas still affect China as profoundly as anything Mao or Marx ever wrote. "In the household, it is women

and servants who are difficult to deal with," he wrote. "If you let them get too close, they become insolent. If you keep them at a distance, they complain."

Under Confucian codes, a man could cancel a marriage for any of seven reasons, including a wife's excessive talking or her failure to bear a son. Obviously, time has eroded much of the legacy. And obviously, if the recent study is correct, women learned more about sex than did men somewhere along the way. But there is still no evidence that sexual enlightenment, even if it spreads, will improve the status of China's women.

[The Economist, June 30, 1990]

EUROPE'S WOMEN—HOW THE OTHER HALF WORKS

No longer do Britain's taxmen address their queries about a married woman's earnings to her husband. Spanish noblewomen have won a court decision—subject to appeal—that they, not a younger brother, can inherit a father's titles. The Anglican Church of Ireland has just ordained its first women priests. Italy last year got its first woman airline pilot. Europe's women are moving out of the home, into the workforce and into a semblance of equality.

Women in the European Community now, on average, have one fewer child apiece than 25 years ago. They have more freedom to work—and often more need to. As marriage has become less common, and divorce more so, the single-parent family, once a rarity, has become common. Most such families—more than 90 percent in Britain, for instance—are headed by women.

Equal opportunities legislation made it more possible for women to work outside the home during the flush years of the early 1970's. Economic recession later made it more necessary. Women were 37 percent of the EC's civilian workforce in 1980, but around 40 percent by 1988. Among them, the Danes, followed by the British, are now, as for decades past, the most likely to have jobs. But the proportion of women who do so has risen markedly in other countries, such as Belgium and Portugal. Though Spanish women are still among the EC's least likely to work outside the home, one-third more of them do so now than in 1980.

QUANTITY, NO QUALITY

Women's share of employment has grown accordingly. Men lost almost 3 million jobs in the EC between 1980 and 1987; women gained almost as many. this is not pure gain, however. It stems partly from the inevitable rundown of manufacturing jobs, typically done by men, and the rise in services, which employ almost three-quarters of Europe's working women. But it also reflects a strong growth in part-time and temporary working.

This kind of work suits employers looking for flexibility and lower costs. It suits some women, enabling them to combine paid work with child-care. But such jobs are often unskilled. They generally offer little training and no prospect of career advancement. The pay is usually low, lower than that, pro rata, for a full-time job, let alone a man's full-time job. In Britain, women in part-time manual work earn only one-half the basic hourly pay of male full-time workers, says that country's Equal Opportunities Commission.

Some 70 percent of the jobs created in the EC between 1983 and 1987 were part-time, says a report by the Centre for Research on European Women. Women hold most of them. In all, about 30 percent of the EC's working women (against 4 percent of men) work part-time: around 60 percent in Holland, 40 to 45 percent in Britain and Denmark, 25 to 30 percent in Belgium, France, and West Germany, 10 to 15 percent elsewhere.

Women also have more than their fair share of other unusual work including temporary contracts, homeworking, and helping (often unpaid) in family businesses. They are prominent in the black economy: sweated labor, the trade unions call some of this work, and often—in Italy's back-street shoemaking, for instance, or Britain's clothing sweatshops—they are right.

So the gap between average women's and men's earnings is large. It has shrunk in all countries since the early 1970's and the EC directive on equal pay for equal work, but not so consistently since the early 1980's. Danish, French, and Italian women manual workers are nearest to the hourly wages of their male counterparts; Irish and British women get only about 70 percent as much as men. Patchier figures on nonmanual hourly earnings show a roughly similar pattern. The overall gap remains at least 25 percent, even without counting men's more frequent overtime.

Low pay is not the only disadvantage. In Ireland, anyone who works fewer than 18 hours a week is ineligible for maternity leave; about one-half of all EC countries require a minimum number of hours a week to qualify for equal, or any, social benefits. Temporary workers everywhere get no redundancy payments when their jobs end. Women also suffer more than their share of unemployment. Accounting for a bit more than two-fifths of the EC's workforce, they make up more than one-half of its unemployed. Unemployment among them is running about 5 percentage points above that of European men.

SLOWLY TO THE TOP

The pace at which women are storming male bastions is not exactly heady. About one-third of doctors in Britain, Denmark, and, surprisingly, Portugal are women. But only 10 percent of Britain's senior corporate managers are, and fewer than 1 percent of executive directors. A senior Spanish scientist claims to be the only woman in the room as she travels Europe to discuss technological collaboration with her peers.

In two areas women are advancing faster than is generally thought. Between the extremes of Britain's buttoned-up Mrs. Margaret Thatcher and Italy's bare-breasted parliamentarian Ms. Ilona Staller, better known as the entertainer La Cicciolina, women are becoming visible in politics.

At or near the top, women are still rare. Mrs. Thatcher apart, Gro Harlem Brundtland, briefly Norway's prime minister, is the only woman in Europe ever elected to lead her country. Only 2 of the 17 (appointed) members of the European Commission, Ms. Vasso Papandreou and Mrs. Christiane Scrivener, are women.

Yet women are working their way in. They won more seats than before in all but one of the national legislative elections in 1989. The gain was most dramatic in Spain, where two of the three leading parties established quotas for female candidates. Women make up 31 percent of Denmark's Parliament and 25 percent of Holland's (taking its two chambers together). In contrast, they account for less than 7 percent of Britain's House of Commons or the French National Assembly. Women won 19 percent of the seats in the European Parliament last year, a three-point rise.

There seem also to be more women entrepreneurs these days, though figures are uncertain. In Britain the number of self-employed women doubled during the 1980's, and one-third of them now employ other people. In West Germany it is estimated that one in every three new enterprises is set up by a woman; the French estimate is one in four. A fair for female entrepreneurs in Madrid last year was well attended.

EUROPE NEEDS YOU

Women's work is attracting increasing attention for two good reasons. First, it is more than ever needed. Europe is running out of new young workers. Only in Ireland are women having enough babies to replace the population. By 2025 there could be about 2 percent fewer people in the EC than there are now.

The European Commission has calculated, for the first nine countries of the Community, that if labor force participation kept to the 1985 pattern and demographic trends stayed the same, by 2000 the labor force in these countries would be shrinking by 300,000 a year. If something like this is not to happen, more women will have to work. Britain's labor force is expected to grow in the 1990's; women are likely to account for 90 percent of the net increase.

Second, even while more women workers are needed, their jobs are under threat as the EC moves toward a single market. This may in time bring more employment. But, as Miss Pauline Jackson, the author of an excellent report on what the 1992 program will mean for women, points out, many women work in the industries that face the biggest shakeout from European integration, new technology, and low-wage competition from outside Europe.

Women make up 45 percent or more of employees in such industries as clothing, textiles and footwear, toys, and photographic equipment. They are less numerous in other sensitive industries such as industrial and consumer electronics, but still fill the majority of the manual, assembly-line jobs. And if unemployment strikes, married women are even less free than are their husbands to move house in search of work.

RESHAPING THE JOB MARKET

Women's interest groups and employment experts are shifting away from hammering home the message of legal equality to arguing for practical reforms to enable more women to work more productively.

Several governments are moving to ditch income tax systems that bear relatively hard on a wife's earnings. Harder to solve are the unavoidable conflicts between employment policy and welfare policy. If a household—couple or single parent—is receiving welfare benefits, these will often be cut if the woman goes out to earn extra money. Given the time and extra costs, and the low wages that are the best many women can hope for, she may well ask why she should bother. Equally, the greater social protection that the EC's social charter recommends, and that some governments have already provided, for part-time or temporary workers is fine for those who already have such jobs; but it may well discourage employers from hiring more of this kind of worker.

Far the biggest obstacle to women's work, however, is the need for child care. EC countries vary widely in the extent to which the state looks after children below school age. Mid-1980's figures from a 1988 study done for the European Commission show this, and its effects. In France, Belgium, Italy, and Denmark, more than four-fifths of children aged 3 to 5 get at least some daytime care at the state's expense. Those are the countries where most of mothers of children under 5 work full-time: 45 percent of Danish mothers, 39 percent of Belgian, 38 percent of French, and 34 percent of Italian. In Britain only about two-fifths of such children get any of this state care, and under 10 percent of the mothers concerned have full-time jobs.

Care for preschool children is not the only need, however. Most schools' working day ends before that of a typical employer. So, young children at least need to be looked after somehow in the afternoon, while their mothers may still be at work.

Most countries are now taking some steps to improve the quantity and quality of childcare. In Spain, where state-financed nursery schools already look after two-thirds of all 3- to 5-year-olds, a new education bill promises total coverage. Some of Holland's main cities have changed school hours, or added extra supervised activities, to bring them more into line with normal work days. The British Government has just allowed employers to treat the cost of providing worksite creches as a business expense, while employees will not be taxed on the benefit. Several countries (though not Britain) allow parents a tax deduction for other forms of childcare costs.

The invention of statutory maternity leave (and in some countries paternity leave) has made it easier for women to have children and go back to work. All countries provide for maternity leave, variously defined and paid, though not for everyone. Spain, for example, has recently increased its leave to 16 weeks at full pay, and allows the father to take 4 weeks of it. Most countries, though not Britain or Ireland, also offer some sort of all-purpose parental leave.

Flexible working hours, for either parent, can make a big difference. This practice—"you work 36 hours a week, but, except for core times when you must be present, it is up to you which hours they are"—has increased in most countries, especially in the public sector. It is not a system that many commercial employers fancy. But it could do much to open jobs to women. And as more workers find themselves looking after old parents, flexibility will be of double value.

Even if all these practical difficulties can be overcome, many women still lack the skills to get into (or return to) good jobs. The trouble starts at school. In Greece and, to a lesser extent, Portugal, illiteracy among women is still seriously higher than among men. More widely, the issue is who studies what. The school-leaving age is the same everywhere for girls as boys. And these days about as many young women as men get higher education too (though not in all countries: even in the mid-1908's women lagged behind in countries as advanced as West Germany, Holland, and Britain). But boys are likelier that girls to study subjects that will help toward a skilled job. In Britain, boys were twice as likely as girls in the mid-1980's to sit "A-level" examinations (for 17-year-olds) in mathematics and almost four times as likely in physics.

France, Spain, and others are trying to coax girls into school subjects, and then into professions, in which they are underrepresented. In Britain and France government and business are working together to increase the number of women technicians and engineers. Greece, Spain, and West Germany are among those that subsidize companies to recruit and train women. Dutch and British companies are setting up worksite nurseries. German companies including BASF and Audi have guaranteed reemployment of female workers who leave for domestic reasons, and encourage them to keep up their skills by standing in for absent colleagues meanwhile.

COUNTING THE COSTS

Helping more women into better jobs at higher pay is all very well, but it will have its costs. These are more than financial. State-subsidized creches and nurseries will have to multiply in most countries, and to improve in all. Yet it is not only reactionaries who suspect that little children lost something spending 8 hours a day

away from their mothers, however good the alternative. With divorce, drugs, and delinquency on the rise, protecting the family unit must also deserve some priority.

The economic adjustment will not be easy. Women have been a convenient source of cheap labor for European employers. Their wages will have to rise. Few companies will have the nerve to take the opposite road to pay equality, real-wage cuts for men (though Marks & Spencer, a leading British retailer, is trying: while British prices soar, it recently announced a 3-year (money) wage freeze for its warehouse jobs, typically held by men). So, in the short term, women may find they have won higher wages by have fewer jobs. Social protection for part-time and temporary workers could have the same effect.

A good deal will depend on attitudes in Brussels. The European Commission is likely to push hard now for practical changes in working conditions, as it did earlier for a legal framework to guarantee equal opportunities and pay. Spurred by an increasingly assertive and increasingly female European Parliament and, from September, by a new Brussels-based pan-European women's lobby, the Commission has two instruments to hand.

It is now discussing plans for a new 5-year (1991–95) action program for equal opportunities. The social charter, vigorously pushed by Ms. Papandreou and accepted, as a set of voluntary principles, by all heads of government except Mrs. Thatcher at the Strasbourg summit last December, also touches on women's issues, and the Commission's work program to implement it makes these goals specific. High on the list are favorites, previously blocked, like a proposed directive on parental leave. A recommendation on childcare is among the suggested new initiatives.

The Commission will have to tiptoe more carefully on these issues, though, than it has in the straight job-and-pay crusades of the past. Even among its own officials some question whether the EC has competence under the Treaty of Rome to prescribe in social matters such as childcare. The British Government is sure it does not. Recommendations rather than directives may be the outcome.

In the end, it is Europe's governments and the societies they represent—especially the employers—who must make up their minds. How far, how fast, and how expensively—for the costs will come before the gains do, and, as with most social advance, they will be enduring costs—are they prepared to ace so that men and women can compete in Europe's labor market on equal terms? Or are they content to see that market go on giving most of the best jobs to men, while it increasingly divides women into those with a career and those scrambling for an occasional piece of work?

Why Are Women in Power in the Nordic Countries But Not in the United States?

(By Arne Selbyg)

Most Americans, if asked about women with political power, would only be able to think of women who influence their husbands, like the wives of presidents. As women elected to powerful positions, they would first think of Margaret Thatcher and Corazon Aquino, the prime ministers of Great Britain and the Philippines. Many would also remember Indira Gandhi of India and Golda Meir of Israel. A few would think about Benazir Bhutto, the recently elected President of Pakistan.

What all these women have in common is that they lead or led political systems completely dominated by men, in countries where hardly any other women hold politically powerful positions. In the United States women have never had more that 2 percent of the Membership in the U.S. Senate and 6 percent of the Members in the House of Representatives. No woman has ever served as President or Vice President, and no Cabinet has had more than two female members.

In contrast, former Prime Minister Gro Harlem Brundtland of Norway and President Vidgis Finnbogadottir of Iceland led and continue to lead countries where numerous women now have been elected to positions of political power. Women have also broken through to positions of political leadership in the other Nordic countries. In the most recent elections to the national legislatures, women gained 21 percent of the seats in Iceland, 31 percent in Denmark, 32 percent in Finland, 36 percent in Norway, and 38 percent in Sweden. Not only did Gro Harlem Brundtland become prime minister of Norway in 1986, but 8 of the 18 members of her cabinet were women, and women are appointed to at least 40 percent of the seats on all governmental committees and commissions. The conservative center coalition headed by the new prime minister, Jan P. Syse, has almost the same high percentage of women members—8 of 19 ministers are women.

How did women get so much political power in the Nordic countries?

A RECENT PHENOMENON

The first point to make is that it is a relatively recent phenomenon. There are examples of powerful women in Scandinavia since the Viking Age. The most prominent example is Queen Margrethe the First of Denmark, who ruled the whole Nordic area from 1389 to her death in 1412. But Queen Margrethe and other historical figures are the exceptions. Until the 19th century women had just as little formal power in Scandinavia as in most other countries.

In the 19th century a feminist movement developed in all of the Scandinavian countries. Its main goals were to gain for women the right to vote, to open up educational and employment opportunities for women, and to give women legal rights equal to those that men had. Similar movements developed in Britain and in the United States, and they and the Scandinavian countries were among the first in the world where women gained these rights. After New Zealand and Australia, Finland and Norway were the first countries to give women the right to vote in national elections, and to be candidates. But women found, as other minority groups have since, that formal equality under the law did not result in equal treatment or equal opportunities. For most of this century, women in Scandinavian countries achieved no more than "token" representation in governmental bodies, at levels similar to the current American situation. They had some representatives, but never many; and they did not gain control over the most powerful positions.

The world leader was Finland, where women gained the right to vote in 1906, at the same time as men. They won 10 percent of the seats in the national assembly immediately, but then they stagnated at about that level for the next 50 years.

In the 1950's feminist arguments were met with as much ridicule, condescension, and prejudice in the Nordic countries as elsewhere. The powerful men were happy to have women work hard in support of political parties and causes, and rewarded them with minor offices and marginal positions of influence. But it was very clear that men and their agenda dominated, even though there were slow and gradual improvements even before 1965.

Then what happened?

AMERICAN INFLUENCE

Clearly the strong movement to empower women that developed in Scandinavia 25 years ago was inspired by the American movements for equal rights. The civil rights movement here led to a feminist movement, as women realized the parallels between the treatment that they were subject to and the treatment of racial minority groups, and as they reacted against the discrimination they encountered.

The civil rights movement in America received much attention and at least vocal support in Scandinavia. When its scope broadened, Scandinavian women eagerly adopted the arguments of their sisters in America, and demonstrated that they were just as applicable in Scandinavia as in the United States. Suddenly, the old line feminists, who had been crying in the desert for 40 years without being heard, were joined and even pushed aside by a growing number of young activists. They fought for political power, and won a sharp increase in women's political representation, first in Finland in the 1960's, then after 1970 in the three Scandinavian countries, and finally in Iceland in the 1980's.

Then we get to the question, why there? If the movement was inspired by the United States why did it succeed in the Nordic countries and fail here?

MANY EXPLANATIONS

One explanation that has been used for this as well as for many other differences between the social conditions in the United States and in Scandinavia, is that the Nordic countries are much smaller and much more homogeneous, with one dominant race and religion, one dominant political philosophy, and few minorities.

The size argument is not very convincing. There are many small countries where women are not empowered, and it should be much easier to find women with leadership potential and skill in large countries where there are more women to choose from.

You could also easily argue that homogeneity should work in the opposite direction. There are other homogeneous countries where women are without influence, such as Japan, and there are heterogeneous countries, such as the Soviet Union, where years ago there were women in positions of power, although in the Soviet Union those days are gone. If homogeneity was a major facilitator of women's

power, Finland should lag behind the Scandinavian countries in the empowerment of women, instead of leading them.

So, the demographic arguments do not seem to hold up.

Cultural arguments are much stronger. They help explain why all the Scandinavian countries are pioneers in this area. As Stephen R. Graubard pointed out some years ago, the Nordic countries do seem to possess a passion for equality. Equality has been highly valued in Norway for centuries, as evidenced by the themes of Norwegian folk tales. Groups that accumulated great wealth or achieved positions of dominance were never able to hold on to these for very long. For 150 years the small farmers and the labor movement have dominated Norwegian politics, with an emphasis on empowerment of the disenfranchised.

Here we find the roots of the fact that Frances Fox Piven, Helga Hernes and others have pointed out, that welfare states and especially social democratic regimes empower women to a greater extent than other political systems. Helga Hernes also points out that now it is the women who keep the social democratic parties in power.

Still, that is not a sufficient explanation. The trade unions have been bastions of male power excluding women, and the unions and the social democratic leadership did not respond to the women's issues until women were needed in the labor market beyond reserve army status in the 1950's and 1960's. The passion for equality and the social democratic ideals were not sufficient to bring women into powerful positions; a strong movement of and for women was needed to bring about the change. The sharp increase in women's representation followed the new feminist movement in America, not the early triumphs of social democratic ideas and efforts. And women are not only needed by trade unions and social democratic parties in Scandinavia, they certainly are needed by the political parties in the United States too. But neither the need for new leadership, nor the need to broaden party support, nor the women's movement has been sufficient to empower American women.

DIFFERENT POLITICAL SYSTEMS

To me, it seems clear that we must seek an explanation also in the structure of the Nordic political systems. Just as some political scientists after comparative analysis have stressed the importance of social democratic ideologies, others have found that women win more power in political systems based on proportional representation from multimember districts.

Proportional representation makes it possible for small parties to survive. Minority views find effective mechanisms in new or small parties, and so a multiparty system develops. That leads to increased competition and worries about giving the other parties an edge. In the 1960's, when one Nordic party put women high on the ballot, other parties felt they needed to do it too. There was a perceived necessity to support the women's agenda, especially since just as many women as men voted. Since most voters acted as it they were permanently wed to a political party that represented their economic interest, the competition grew for those voters who might switch parties for other reasons.

Multimember districts lead to the avoidance of one-on-one competitions. A woman running for election in Scandinavia does not have to beat out all the male candidates, nor run against the incumbents. Men could help their own chances by bringing women on to the ticket to balance it. It was possible for the parties to include women as vacancies occurred and let them gradually move up the ladder. They did not have to start out as the standardbearer, the leader, or the primary candidate.

Another important aspect of the Scandinavian election systems is that local elections are held on the same day across each country with the candidates running as the candidates of political parties. The tie between local and national representation creates steps on which the candidates may progress, from school boards, to municipal councils, to regional councils, to the national assembly, to the national leadership. Coordinated local elections become referendums on party support, readings of the national pulse between national elections.

Together, these aspects of the election systems created a ratchet effect, a positive spiral, where modest beginnings led to successes feeding off earlier success. The parties had to face the question "What have you done for me lately?" from women as well as men.

Now a watershed has been passed and a new situation has been established in the Nordic countries. Although a man has become the new prime minister of Norway, or could become President of Iceland, each political party in Scandinavia must continue to include at least 30 percent women in its leadership or risk being clobbered for lack of attention to women's concerns.

The sad news for American women is that so few of these conditions are present here. Not only is there little receptivity for social democratic ideals, and not much of a passion for equality, but the United States has an election system that stifles innovation, prevents new parties from becoming effective, and reduces the worries of incumbents. And the international comparisons indicate that to politically empower women, all these factors—an enabling election system, a supportive ideology, the spark of a movement, and a lot of hard work—are needed.

[Newsweek, Jan. 22, 1990]

The Main Track at Last

(By Hideko Takayama)

AS JAPAN'S ECONOMY MOVES FORWARD, WOMEN ARE JUST CATCHING UP

On Friday nights in the cafe bars of Tokyo, well-dressed young women sip white wine after work with their female colleagues. At a dam construction site in the mountains of northern Japan, young women in hard hats drive 45-ton dump trucks. At Matsushita Electric in Osaka, a team of female employees is responsible for a successful line of small, chic appliances aimed at a burgeoning new market—single working women who don't wait until they marry to set up a home.

In the United States, none of these scenes would be unusual. But this is Japan, where a woman's place has always been three steps behind her man. No longer. In the last few years, there has been a quiet revolution in the relationship between the sexes. It was nurtured by Japan's postwar consumer-rights movement, traditionally a bastion of women's activism, and gained inspiration from the advances of women in the West. The country's booming economy enabled ordinary Japanese women to travel and see how the rest of the world was living—and gave them new choices at home. Then, in 1989, women gained political clout when they helped force the resignations of two prime ministers after revelations of sex scandals and corruption.

Last summer the Japanese press began proclaiming the dawn of *Onna no Jidai*, the Era of Women, in recognition of the most independent generation of women in the country's history. Though they still have a long way to go compared with their Western counterparts, there's no question that more and more Japanese women are refusing to stick to their old submissive roles. Today the average age of a new bride is 25.7; in the United States, it's 23.8. More than one-third of Japanese women continue their education after high school, a rate equal to that of men. More than 40 percent of the labor force are female, and women are moving into fields that were once considered exclusively male. In 1985, for example, there were more than 62,000 women engineers, compared with only 14,000 in 1975.

One small but intriguing sign of the new assertive attitude is the growing number of on-the-job sexual-harassment complaints. Women used to be too embarrassed to talk about such a thing. But a Japanese court is now hearing what is said to be the first lawsuit ever filed in a case of alleged sexual harassment. A female worker is seeking 3.7 million yen (roughly $25,000) in compensation from a company that fired her after she accused her boss of *sekuhara*, the Japanese transliteration of the English words. Last fall a group of Tokyo lawyers set up a hot line offering legal advice to sexual-harassment victims. In 6 hours, they reported taking 138 complaints, ranging from lewd insults to rape.

NEW MARKET

Working women are also becoming an important new market for Japanese businesses. A decade ago only two or three companies in the entire country were in the business of providing babysitting services. Entrusting children to the hands of strangers was unthinkable to most Japanese parents. Today more than 50 companies are cashing in on the growing market for babysitters. Department stores across Japan have sections specializing in take-home meals. Late on weekday afternoons the stores' food floors are packed with women customers who have no time for cooking. And many companies are establishing all-female teams to come up with new products appealing to working women.

These changes are startling even to some women's rights advocates. One of Kii Nakamura's most cherished keepsakes is a photo of herself at the age of 3, helping her mother hand out feminist leaflets in Tokyo. The picture was taken in 1928, 19 years before the Japanese Constitution recognized women's right to vote. Nakamura marvels at the progress she has seen. "Just look where the kitchen is located in

people's houses," she says. "It used to be the darkest, coldest room, stuck off on the north side of the building. That was the place for the womenfolk. Now kitchens are put where they get plenty of light." In fact, Nakamura hasn't fully adjusted to so much equality. She admits she was a bit surprised a few years ago to see her son toting her infant grandchild in a baby carrier while his wife strolled beside him unencumbered.

Nakamura is not the only one trapped between old and new worlds. In a recent government-sponsored survey of middle-age couples, fewer than one-quarter of the men said they approved of women working, and barely one-fifth said that husbands ought to help out with the housework and child care. Even among the women, only 44 percent said those duties should be shared. Like their American counterparts, Japan's working wives do double duty, spending more than 3 hours a day on housework. The average man, whether or not his wife works, puts in 8 minutes.

Statistics like these convince some Japanese women that the revolution may be more cosmetic than real. Five years ago, for example, Japan's Parliament passed the Equal Opportunity Employment Law, which forbids employers to discriminate against women. But feminists say the law is a sham because it exacts no penalties for violators. Though the number of women managers is increasing, most women in Japanese corporations are relegated to the status of "office ladies" who serve tea, act as greeters, and perform low-level clerical jobs. They are rarely on the *sogo shoku*, the main career track leading to the executive suite. The few women who break through are pioneers. Chihiro Takagaki, 29, was one of the 1,200 women clerks working at one of Japan's biggest trading companies. Last year she and three others passed in-house examinations and gained sogo shoku status. "I felt as though it was my mission," she says. "Now there will be more women to follow me."

OTHER ROUTES

Some women, frustrated with obstacles thrown up by the male corporate power structure, are looking for alternative routes to success. Some decide to set up shop for themselves. A recent study of nearly 800,000 Japanese companies found that 34,636 had women presidents in 1988—an increase of nearly 11 percent from the previous year. Chieko Okuno, 35, is one of the new breed of female entrepreneurs. Her 12-year-old movie production company has won awards for its documentary and commercial films. She says she had to go off on her own to get ahead because "the men at the top are often the worst kind when it comes to discriminating against women." Another choice is to work for foreign companies, which tend to be more progressive in their attitudes toward women. Some women go even further, leaving the country to study at American business schools where they believe they can get an edge on the competition at home.

But many more women say that while progress may be slow in coming to this very traditional society, it is nonetheless steady. Mayumi Okubo, 25, hated her job as a department store clerk, a typical female job. No matter how impossibly the customers treated her, she always had to smile and nod. One day in the newspaper she spotted an ad offering an unusual opportunity—equal pay for women at a construction company. Now she works in a machine shop, shaping pieces of steel for use in reinforced-concrete buildings. At quitting time, Okubo rushes home to fix supper for her husband, a printer. Her day may be long, but her new job pays 75 percent more than the old one, and there's never a rude shopper in sight.

TRADING PLACES

MORE AND MORE WOMEN ARE ON THE DAUGHTER TRACK, WORKING, RAISING KIDS, AND HELPING AGING PARENTS

Like many daughters of aging parents, Sandy Berman didn't recognize at first how far her mother and father had slipped. "You are so used to your parents being mentally competent that you don't realize what you're dealing with for a long time," says the Northridge, CA, schoolteacher, 47. Her parents had been living with trash piling up in their home for almost a year when Berman finally convinced them to move closer. But the move only hastened their decline. Berman's father, 83, became forgetful and overdosed on his insulin. Her mother, 74, couldn't find her way from the bedroom to the bathroom. For months, Berman called every morning before going to work, and stopped by every afternoon. "I was going to make everything right, and better, and perfect," she says. "But everything I did turned to mush."

While her mother was sweet and cooperative, Berman says, age turned her father mean. He called at all hours of the night and thought his daughter was stealing his money. He hired a detective and changed the locks on the door. Berman was haunted by anxiety attacks. Her job teaching third grade was her only refuge. "When the bell rang at the end of the day, my stomach started to clench," she says. She worried that she was neglecting her husband and son, and longed to be mothered herself again. She lost 30 pounds and had fantasies of running away: "San Fernando Valley schoolteacher disappears. No one knows why she didn't come home for dinner * * *"

In February 1989, Berman snapped. "I was nurturing at home, at school, and at my parents', and getting nothing back," she says. She quit work and stopped seeing her parents for 2 months, all the while making decisions for them with the help of a geriatric counselor and a lawyer. Diagnosed with Alzheimer's disease and paranoia, her father went from one nursing facility to another, and died in May 1989. Berman found a board-and-care home for her mother and enrolled her in an adult daycare center to keep her mind stimulated. These days, Berman visits her twice a month, and calls once a week, though her mother doesn't seem to know if she has called or not. Berman has returned to work, but she still wonders—and always will—"Did I do the right thing?"

Anguish, frustration, devotion, and love. A fierce tangle of emotions comes with parenting one's aged parents, and there isn't time to sort out the feelings, let alone make dinner, fold the laundry, and get to work. More than 6 million elderly Americans need help with such basics as getting out of bed and going to the bathroom; millions more can't manage meals, money, or transportation. Most are cared for by family members, at home, for free—and most families wouldn't have it any other way. There are myriad variations: "children" in their 60's looking after parents in their 80's; spouses spending their golden years tending ailing mates; empty-nesters who had paid the last tuition check only to have an aged relative move in. Increasingly, men are shouldering such responsibilities. Still, three-fourths of those caring for the elderly are women, as it has always been. "Until the last couple of decades, women were home," explains Diane Piktialis of Work/Family Directions, a Boston consulting firm. "Caregiving was their job."

But today they have other jobs as well. More than one-half the women who care for elderly relatives also work outside the home; nearly 40 percent are still raising children of their own. In fact,just when many women on the "Mommy Track" thought they could get back to their careers, some are finding themselves on an even longer "Daughter Track," with their parents, or their husband's parents, growing frail. The average American woman will spend 17 years raising children and 18 years helping aged parents, according to a 1988 U.S. House of Representatives report. As the population ages and chronic, disabling conditions become more common, many more families will care for aged relatives. And because they delayed childbirth, more couples will find themselves "sandwiched" between childcare and elder care. The oldest babyboomers are now in their mid-40's' their parents are mostly in their late 60's and early 70's, when disabilities tend to begin. In the next few years, predicts Dana Friedman of the Families and Work Institute, there will be a "groundswell of babyboomers experiencing these problems."

The strains on women, long evident in their personal lives, are now showing up in the workplace. In recent years, about 14 percent of caregivers to the elderly have switched from full- to part-time jobs and 12 percent have left the workforce, according to the American Association of Retired Persons. Another 28 percent have considered quitting their jobs, other studies have found. That's just what's aboveboard. Many employees are afraid to let on that they spent that "sick day" taking Mom to the doctor, visiting nursing homes, or applying for Medicare. Many women shop, cook, and clean for their parents before work, after work, and on lunch hours, stealing time to confer on the phone during the day. "Caring for a dependent adult has become, for many, a second full-time job," says Bernard M. Kilbourn, a former regional director of the U.S. Health and Human Services Department, now with a consulting group, Caregivers Guidance Systems, Inc.

To date, only about 3 percent of U.S. companies have policies that assist employees caring for the elderly. But Friedman predicts that such programs will become "the new, pioneering benefit of the 1990's." Businesses may have no choice. With the baby bust sharply reducing the number of young workers entering the job market, the U.S. Bureau of Labor Statistics warns that 60 percent of the growth in the labor force this decade will be women, virtually all aged 35 to 54. "This is the age group that's feeling the brunt of childcare responsibilities," says the BLS's Jesse Benjamin. "This is also the age group where elder care hits. It's a double whammy."

Congress is encouraging more family-friendly work policies—at least, it has tried. After 5 years of debate, lawmakers recently passed the Family and Medical Leave Act, requiring companies with more than 50 employees to grant them up to 12 weeks' unpaid leave to care for newborn or adopted children or relatives who are seriously ill. But President George Bush vetoed the bill, on the ground that Government should not dictate corporate benefits.

American society is just waking up to the needs of an aging population. Even the words "elder care" and "caregiver" are new to the lexicon. Now, "there's a name and a description, and people are beginning to say, 'I fit into that,'" says Louise Fradkin, cofounder of the support group Children of Aging Parents (CAPS), which has more than 100 chapters nationwide. for years, Fradkin says, caring for aged relatives was a hidden responsibility, one that most women assumed in silence. Even the major feminist groups have been slow to make it a cause. The National Organization for Women, for example, has been more concerned with abortion rights and advancement for women in the workplace than with family roles. "The problem today's midlife woman faces is that the rhetoric of the 1970's and the realities of the 1990's are somewhat discordant," says Michael Creedon of the National Council on Aging.

Only the Older Women's League (OWL), a Washington advocacy group, has made elder care a pressing issue. "No matter what else we talk about, our members always come back to caregiving—it has a big impact on all their other roles," says OWL executive director Joan Kuriansky. "We get letters from women who are taking care of their children, and their parents, and possibly *their* parents. They are running from place to place. How do we expect them to do that and stay employed?."

That is the dilemma of the Daughter Track. While women have become a major force in the American workplace, their roles as caregivers remain entrenched in the expectations of society and individual families. "Often it's the woman's own sense of what's required of her," says Kuriansky. "Some of it is emotional. Some of it is economic—she may feel that she cannot contribute financially as much as a man does." And just as with childcare, says CAPS' Fradkin, "women feel they have to be superwomen and do it all themselves."

Those who do ask for help at home are often frustrated. Many husbands are unable—or unwilling—to confront the emotional demands of elder care, even when the aged parents are their own. Two years ago, Pamela Resnick of Coral Springs, FL, quit her job and moved her ailing father-in-law in. While he was in and out of hospitals, she says, "he always wanted to see me—not even my husband. My husband doesn't deal very well with that type of scene." Joan Segal, 49, who quit her job to care for her mother, threatened to leave her husband unless he helped her mother more. Since then, Segal says, "he's so protective you'd think she was his own mother."

Grandchildren may also be swept into the changing family dynamics, and that adds to the guilt many women feel. Kristeen Davis, 43, a divorced accounting supervisor, has cut down her work hours since her 63-year-old mother, an Alzheimer's victim, came to live with her in Kansas City. Still, Davis' 13-year-old daughter must be home by 3:30 each day when her grandmother returns from an adult daycare center. "It's been hard on all of us," says Davis. Yet she says her mother "did for me when I was young. What's a couple of years out of my life?"

Time is often the most precious commodity for caregivers. "We were used to being George and Nancy with no kids at home," says Nancy Erbst, 38, of Minneapolis, whose mother-in-law, Hazel, lived with them for 4 years. "We used to take off on weekends and go camping. Our camping went down to one weekend in the summer." Nancy, an executive secretary, was also working to earn a bachelor's degree at the time. She would get up at 4 a.m. to study, then tend to Hazel before leaving for work at 7:45. Her husband's two grown daughters, who lived nearby, also helped watch over their grandmother until last spring, when her deteriorating health forced her into a nursing home. "It's what a family does for each other," Nancy says. "It's something you want to do."

Not all families rally so gracefully. Deciding who should do the caring, and where, can stir up old sibling rivalries—and create new bitterness. For several years, Linda Hunt, a 54-year-old Kansas widow, has been the primary caregiver for her mother, now in a nearby nursing home. Her brother has been mostly uninvolved. "Sometimes when he calls, he doesn't ask about her,"she says. "It sets me hard against him."

Responsibility for an elderly relative usually falls to the woman who is nearest. And sometimes no one is close. Roughly one-third of caregivers manage care for their aged parents long distance, assessing changing needs over the phone and with

reports from neighbors. Even though her mother and father lived in a residential community that provided housekeeping and meals, Saretta Berlin, flew from Philadelphia to Ft. Lauderdale, FL, every 10 days during much of 1989, when her parents were failing. "I would tell myself that if I just made it to the plane, I would be OK," she says. "Then perfect strangers would ask me how I was doing, and the floodgates would open." Even now, with her father dead and her mother in a retirement home, Berlin calls daily and visits every 3 weeks or so.

As Berlin found, even when families put a parent in a nursing home, their responsibilities don't end. Many grown children rearrange their lives to visit as often as possible, and field lonely phone calls, night and day. Only about 10 percent of the disabled elderly are in such facilities—and the decision can haunt their families long afterward. Linda Hunt still feels guilty about putting her mother in a home 3 years ago—even though she was blind and Hunt was holding down two full-time jobs. "You think you should be able to do it all, but you can't," she says. "First you care for your children, then your mother. Pretty soon you just give your whole self to other people."

Unlike child care, the responsibilities of elder care often come suddenly. A stroke or broken hip can mean the difference between a parent living independently and needing round-the-clock care. And while a child's needs can be planned for, an older person's requirements are often difficult to assess. Can Dad still manage in his own home? Will he need care for a few months—or many years? What's more, says Kilbourn, "in dealing with your parents, you do not have total control. Any decision * * * can be met with resistance if not total refusal to cooperate."

Reversing roles is one of the hardest aspects of caring for an aged parent. Kristeen Davis says her mother was "a really sharp lady—and one of my best friends" before Alzheimer's set in. Now, Davis says, "sometimes she just sits there like a little lump that used to be a person." Elderly people find it even harder to relinquish their old parental roles. Many are desperately afraid of burdening their busy children, yet desperately afraid of being alone.

Dot von Gerbig's mother and father moved in to help her in 1969, when she was a widow raising small children. Today, they still share her Honey Brook, PA, home, along with her second husband and their 15-year-old son. Von Gerbig's father, 92, is confined to a wheelchair: her mother, 84, is mentally confused, and both are legally blind. Before leaving for work at 7 a.m., Von Gerbig arranges every aspect of their lives, laying out clothes and organizing food in the refrigerator, so they can manage by themselves until she returns. "So far, we're making it," says Von Gerbig, 52. But she lives in fear that something will go wrong and make her break her vow to keep them out of a nursing home. What troubles her even more, she says, is how terribly cruel the aging process is. "It makes me angry and it makes me fearful," she says. "It's an awful thing that a person does a good job all his life and this is his reward."

Most caregivers lament that they can't do more for their parents. Some of the toughest constraints are financial. Medicare does not cover the costs of long-term care, anywhere. Medicaid will pay for nursing homes, and home care in some States, but only after a patient has depleted his assets nearly to the poverty level. Thus, many elderly people exhaust their lifesavings paying for care, and families dig deep into their own pockets to help them.

Many married women, particularly those in low-paying jobs, find it cheaper to quit work and care for aging relatives themselves than to hire home health care. Professional women are less inclined to quit and more apt to hire help. Many are torn between the parents they cherish and the work they love. Just when many have gotten a long-awaited promotion, they find their parents in need of care.

Charlotte Datrow decided she had to abandon her career as a social psychologist at Yale and move to Ann Arbor, MI, when her widowed mother fell ill in the late 1970's. She spent much of the next 7 years cooking and chauffeuring for her. As a result, Darrow says, "I really lost everything—it was much too late to go back and recapture my career." She devoted the next 6 years to studying how 15 other professional women combined work and caregiving. Her manuscript tells how they hired help and sacrificed weekends, lunches, and vacations to spend time with their parents. Despite enormous stresses, all 15 continued their careers. "What these women showed is that people don't have to say, 'My God, this is it!' " says Darrow, 67. "It is possible to go on with your life."

What can employers do to make that easier? One of the most helpful things it to acknowledge the situation. "Corporate America needs to create an environment where employees can say, 'I have a problem with an elder who needs care,' " says OWL president Lou Glasse. The Travelers Companies was one of the first to do so; after a 1985 survey found that 28 percent of its workers over 30 cared for an aged parent, on an average of 10 hours a week, Travelers started a series of support pro-

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grams. Today's leader may the The Stride Rite Corp., which this year opened the Nation's first onsite intergenerational daycare center.

Other forwardlooking firms have devised a wide range of programs and benefits. One of the most common, and least costly, is simply to educate employees about social services available in their communities. Some firms hold lunchtime seminars or "Caregiver Fairs," where local agencies describe their programs. Some publish detailed handbooks for employees, covering everything from how to select a nursing home to how to locate and pay for respite care. Growing numbers of companies also contract with private consulting firms that can help employees manage care even for relatives in distant cities. Work/Family Directions has developed programs for 21 national firms, linking their clients' employees with 175 agencies across the country. It also provides an 800 number for support and advice. In a few cities, government agencies provide similar services. Employees "don't want a way out of their caregiving responsibilities—they just want some help in coping," says Barbara Lepis, director of Partnership for Eldercare, a New York City program working with American Express, Philip Morris, and J.P Morgan.

The same Employee Assistance Programs (EAP's) that assist workers with drug and alcohol problems can often help with strains on the homefront. In fact, EAP counselors frequently find that caregiving duties are at the root of employees' financial, marital, or job-performance difficulties. Teresa Freeman, EAP manager at Travelers, says one employee was referred to her office because she was crying at work; another had been put on warning because she was unable to learn new skills. Both, it turned out, were caring for elderly parents and were cracking under the strain. Freeman formed a support group of caregiving employees. But other firms have found that support groups don't work well in situations where bosses and their subordinates may be reluctant to share intimate problems. Lepis says the chemistry works better when such sessions are called "caregiver exchanges" that deal with a specific topic, such as filling out a medical form. "Then we are able to get a cross-strata of the workforce to commiserate together about this stupid form," she says.

Some firms are training supervisors to be compassionate about the demands workers face at home. Managers must also be reminded that the Mommy Track, and the Daughter Track, should not be slower roads to advancement. Otherwise, warned OWL in its 1989 Mother's Day report, "only orphans with no children could be placed on the fast track to professional success."

Growing numbers of firms are granting unpaid leaves to employees with family needs. IBM is perhaps the most generous. Full-time employees can take up to 3 years off, with benefits, and find their jobs waiting. "If we give our employees help in managing their personal lives, it helps us attract and retain the workers we need," says IBM spokesman Jim Smith. That has proved true at Aetna Life and Casualty as well. When it extended its family leave from a few weeks to as long as a year in 1988, the turnover rate among its female caregivers dropped from 22 to 13 percent. About 15 percent of U.S. companies offer flexible work hours. Some 35 percent of U.S. Sprint's 16,000 employees are on an "alternative" schedule—flextime, part-time or jobsharing, though most do so for child care or other reasons. Since January, Travelers has also granted every employee 3 "family-care days" a year that do not count as absences.

Alas, some elder-care programs are under utilized. In 1987, Remington Products offered to pay one-half the cost of respite care for workers' dependents during non-work hours. Two years later, it dropped the program when fewer than six employees had signed up. Michael Creedon, who conceived the idea through his work at the neighboring University of Bridgeport (Conn.), speculates that Remington's highly ethnic workforce may not have been comfortable with the idea of strangers in their home. Indeed, says OWL's Glasse, "many caregivers want to be so supportive of elders that they are reluctant to ask for help" and try to do it all on their own. Out of embarrassment, or their own individual work ethic, many employees are also reluctant to burden their bosses with family problems.

In the end, there is only so much the business world can do to help America's caregivers. Many liberal lawmakers and more than 100 special-interest groups are pressing the Federal Government to do more. In March, the U.S. Bipartisan Commission on Comprehensive Health Care proposed a giant new long-term care program that would guarantee home health care and 3 free months in a nursing home to all severely disabled Americans who need it, regardless of age or income. But the price tag—an estimated $42 billion a year—virtually assures that no legislative action will be taken any time soon.

Even without creating a massive new entitlement program, the Federal Government could do more to help the elderly and those who care for them. Federal funding for the network of social-service programs serving the elderly is a paltry $710

million a year; services are sparse and fragmented in many areas. Most offices are open only 9 to 5, forcing caregivers to deal with them during work hours. OWL is pressing the Social Security Administration to rewrite rules that penalize workers who take time out to care for children or aged dependents. Upon retirement, a worker's monthly benefit is determined by averaging his or her earnings over the past 35 years. A zero is entered for any year not worked, no matter what the reason. Caregiving, says OWL executive director Kuriansky, "is a wonderful dimension of woman as nurturer—and it's something we don't want to undermine. But in playing that role, we want to make sure she is rewarded, not penalized."

Most women on the Daughter Track do not want to give up their family responsibilities—no matter what personal or professional sacrifices it entails. Many see their efforts as a chance to repay the time and care their parents gave them—a chance to say, again, *I love you*, before it's too late. What they would like is more understanding at work, more support from the men in their lives, more community services to help them—and a little applause from a world that often turns too fast to take time out for love.

The CHAIRMAN. Thank you very much, Senator Simon.

Now we are privileged to have our colleagues from both our body and the other body with us.

I will turn first to Senator Mikulski, our friend and colleague. We welcome her here.

STATEMENT OF HON. BARBARA MIKULSKI, U.S. SENATOR FROM MARYLAND

Senator MIKULSKI. Thank you very much, Mr. Chairman. I am pleased to be here with my sisters in the Congress to testify in very strong support of the ratification of the U.N. Convention on the Elimination of All Forms of Discrimination Against Women. I am especially pleased to add my support to the distinguished chairman, our colleague, Senator Pell.

Senator Pell, you have been a leader on this issue, and, both as an important chairman in the Human Resources Committee and on the Foreign Relations Committee, you have been in the forefront for basic human rights and dignity.

As chairman of the Foreign Relations Committee, Senator, you have been a "Galahad" for those around the world who have been oppressed, ignored, or forgotten.

You know, when I was fighting for the Women in Development Act, you were the one to help get funding for the women that would bring Third World nations into the 21st century.

Your work has been a pattern, I think, of your spirit of generosity, and you are to be congratulated for what you have done for the women around the world and in our own country.

But, Mr. Chairman, I also want to say that we really need to pass this U.N. Convention on Eliminating Discrimination Against Women. The key provisions are what any country of civilization would support: Ending exploitation of prostitution; giving the right to vote; access to education; opportunities for employment; family leave; the right to credit; improved living conditions; the ability to space your own family. These are just basic human rights, and the observation of even a handful of these provisions would dramatically improve the lives of women the world over, particularly in developing nations.

I have always believed that if only we could teach all of the women in the world to read, to choose the size of their family and to earn a living, most of the problems of women would be solved.

Consider the life of a woman in rural Africa. Illiterate and uneducated, she is pushed into early marriage. A large family is a badge of honor, demonstrating her husband's fertility. She might be forced to bear as many as 14 children, 6 or 8 of whom only will survive. The No. 1 killer of African women of childbearing age is childbirth.

Since her husband has moved to the city, she will raise the kids by herself, working 14 hours a day, going miles for water, scavenging for fuel, having elderly relatives also depend on her. There is no opportunity to learn to read. There is no hope for a better life.

Yet, Third World women are the invisible heroes, working for human rights and a better life as they till the soil and raise the children. Some are activists, leading the struggle against poverty and oppression, and some quietly provide food and shelter. But all—all—should have the support of people around the world to provide them with the elimination of discrimination.

Mr. Chairman, I have more to say, but I ask unanimous consent that my full statement be included in the record, if I may.

I would like to just wrap up by saying that 10 years ago, President Carter appointed me and Congresswoman Oakar to be at the delegation which traveled to Copenhagen to sign this convention. I remember that early morning, in the rain, when Congresswoman Oakar and I, and people like Sarah Waddington and Arvonne Fraser stepped up to sign with other women around the world. There was such buoyancy, such enthusiasm, such optimism, such hope that we were going to end discrimination around the world and we were going to do it through a legal document, through the United Nations. We were convinced that the United States of America would be one of the first to be a signatory.

Well, Mr. Chairman, today I come to you as an embarrassed American and a very embarrassed U.S. Senator. If it had not been for your leadership, it would not even be talked about.

So, we have a wonderful opportunity to do something for the women of the world and it would not cost anything, except a little more "patriarchal pride." [General laughter.]

So, I yield back my time and hope that we would ratify this important convention.

[The prepared statement of Senator Mikulski follows:]

PREPARED STATEMENT OF BARBARA A. MIKULSKI

Thank you Mr. Chairman. I am pleased to be here to testify in support of ratification of U.N. Convention on the Elimination of All Forms of Discrimination Against Women. I am especially pleased to add my support to the distinguished chairman, my colleague Senator Pell.

Senator Pell has been a leader on this issue. Both as chairman of this committee and as the chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism in the Labor and Human Resources Committee, Senator Pell has been in the forefront of the fight for basic human rights and dignity. He understands that working for women is working for the family, and working for everyone.

From child care to family leave, from education to health, Senator Pell and I have worked together to ensure equity and equal rights for women. I am pleased that he brings that same perspective to this committee.

As chairman of the Foreign Affairs Committee, Senator Pell has been a Galahad for those around the world who have been oppressed, ignored, or forgotten. When I was fighting for the Women in Development Act—to get funding for the women who are bringing Third World nations into the 20th century—Senator Pell was instrumental in including the act in the committee bill.

This special concern and generosity of spirit is not a passing fancy—it has been the pattern of Senator Pell's life. That is why I am so pleased to be here to add my voice to his. Not only on behalf of American women, but on behalf of women around the world.

The U.N. Convention on the Elimination of All Forms of Discrimination Against Women sets an agenda and establishes legal and social standards guaranteeing basic human rights for women.

Key provisions include: ending exploitative prostitution; changing social patterns of male superiority; the right to vote and hold elective office; access to education; equal employment opportunity and comparable worth; family leave; access to health care, including family planning; the right to credit; and improved living conditions for rural women.

The observation of even a handful of these provisions would radically improve the lives of women the world over, particularly in developing nations.

I have always believed that if only we could teach all women to read, to choose the size of their family, and to earn a living; most of the world's economic problems would be solved.

Consider the life a woman in rural Africa. Illiterate and uneducated, she is pushed into an early marriage. A large family is a badge of honor, proving her and her husband's fertility. She may bear 13 to 14 children, of whom 6 or 8 will survive. Childbirth is the No. 1 killer of African women of childbearing age.

Since her husband has moved to the city to earn money, she will raise the children herself, working 14 hours a day to scratch a living from a tiny, two-acre farm. Water must be carried from the communal well, fuel scavenged from the surrounding countryside. Elderly relatives join the children as responsibilities for the woman.

In this woman's life, there is no opportunity to learn reading or new economic skills; there is no recreation or time off; there is no hope for a better life.

Yet Third World women are invisible heroes: working for human rights and a better life even as they till the soil and raise the children. Some are activists; leading the struggle against poverty and oppression. Some quietly provide basic food and shelter.

They all hold their families and their societies together against impossible odds. When we change their lives, we change nations and we change the next generation. That is our opportunity, that is our challenge.

This document stands for the same rights and liberties that America claims to represent. It guarantees women the same legal rights and social protection that men all over the world have always taken for granted. As a matter of pride, I believe the United States should have been one of the first nations to ratify this convention.

Ten years ago, I was appointed by President Jimmy Carter to the delegation which traveled to Copenhagen to sign this convention. For 10 years U.N. Convention on the Elimination of All Forms of Discrimination Against Women has languished in the U.S. Senate, while over 100 nations around the world have ratified it.

I was proud to travel to Copenhagen. I'll be even prouder to cast my vote for this convention. I can't wait. We have a wonderful and unique opportunity to change the world.

The CHAIRMAN. Thank you very much for being with us and for your kind words.

I would like to turn now to Congresswoman Oakar.

STATEMENT OF HON. MARY ROSE OAKAR, U.S. REPRESENTATIVE IN CONGRESS FROM OHIO

Ms. OAKAR. Thank you very much, Mr. Chairman and distinguished members of this committee. I want to thank Senator Sarbanes, Senator Cranston, Senator Simon, and, of course, your leadership, Mr. Chairman. Thank you very much for attending this important hearing.

I want to join my dear friends and colleagues in supporting you, Mr. Chairman, in doing your part in the Senate in marking up this treaty, putting it on the floor for ratification, and having the President, hopefully, sign it.

You really have been a leader, along with your colleagues, in this area. Frankly, it is very disconcerting to me that, as one of the signers in Copenhagen, as my dear friend Senator Mikulski has said, with the joy that she captured in her eloquent words, we are here, one decade leader, pleading with the administration to support this treaty.

When you look at the language of the treaty in the preamble of the treaty—let me just read one sentence. "The full and complete development of a country, the welfare of the world, the cause of peace require the maximum participation of women on equal terms with men in all fields."

Who can disagree with that? Why is this treaty so controversial to the administration?

I fail to understand it.

I returned, Mr. Chairman, from Copenhagen with high hopes that what we had signed would lead to a decade in which we would see the elimination of discrimination simply because one was born female.

Mr. Chairman, this is prime time to pass this treaty, to ratify it, because, I think, of what is going on in the world. I had the privilege of being one of the 50 Americans who monitored the elections, the free elections, in Czechoslovakia. The joy and the spirit that went on with that free election, the first election in almost 50 years, was so contagious. I returned back to my own country and it was good for my soul. I thought to myself: Where is our revolution? What are we doing for the cause of freedom and human rights?

I think this particular treaty is a step in the right direction. Like Senator Mikulski, I, too, an extraordinarily embarrassed that 101 countries have signed and ratified this treaty and our country is one of the last. Two administrations, apparently, for more than a decade, oppose it. It really is very, very disconcerting to me.

Mr. Chairman, I want to mention something because I think it does deserve to go into the record.

In Nairobi, Kenya, in 1985—and I have never said this publicly; but I do want to say it today—there was a world conference to review and appreciate the achievements of the U.N. Decade for Women on equality, development, and peace. The Speaker, as he nominated Senator Mikulski and I in 1979, again nominated me as a Member of the House to attend that convention. It was protocol that the President usually went along with the Speaker's request.

President Reagan, in his "wisdom," decided not to allow the Representatives that the Speaker chose to attend, and I was eliminated. That was the politicization, I think, of the free thinking that should go on at these conventions. I hope this never happens again, that the protocol that we have all enjoyed in the House and the Senate is acknowledged by the administration.

Senator SARBANES. You said that President Reagan in his "wisdom," with very large quotation marks around "wisdom," did you not?

Ms. OAKAR. Yes, I did. I did not agree with this, but he had the final call on that. I think this signals that what Senator Mikulski and I and others had done at the convention in Copenhagen apparently did not meet with current approval, at the time, at least.

For more than 10 years, the administration, two administrations, have held fast that they want nothing to do with this particular document. I think that is very, very sad.

So, I come here today to implore the esteemed members of this committee to pick up the torch of liberty that the administration has chosen to overlook, to choose to believe that women around the world deserve to be treated fairly and equally. Show that our country is the leader in human rights, not just in rhetoric, but in action.

Mr. Chairman and members, if you look at what this convention calls for, there are 30 articles. I would just like to mention a few because I think they bear repeating. These are: Equal access to education; nondiscrimination in employment and pay; job security in the event of marriage or maternity; promoting the establishment and development of a network of child care facilities; equal access to credit, as Senator Mikulski has mentioned.

I understand—and, Senator Cranston, you will appreciate this—I understand that one of the real problems they have is the part of the treaty that relates to pay equity. You have introduced a bill on the Senate side for a study of Federal employees, and I have done it on the House side. Now we are anxiously awaiting the GAO report that implements the study on pay equity.

Why are they so afraid of this issue, economic security for all women in the world, including our own area? Our laws are on the books. There is the Civil Rights Act, Title 7; the Equal Pay Act. Both were passed more than 20 years ago. They are on the books and ensure that sex-based wage discrimination is against the law.

How is it that we cannot support fairness in pay? How is it that we cannot signal to the world that we believe all women should enjoy economic security, not only for themselves but for the sake of their families?

I know you, Senator Pell, and your colleagues will provide the leadership in supporting this document. But I call on the administration to provide the leadership—not just the rhetoric, but the leadership—in supporting human rights for all people in the global community. I certainly feel strongly that this should be ratified by the Senate.

Thank you.

The CHAIRMAN. Thank you very much, indeed.

Congresswoman Pelosi, welcome.

STATEMENT OF HON. NANCY PELOSI, U.S. REPRESENTATIVE FROM CALIFORNIA

Ms. PELOSI. Thank you very much, Mr. Chairman, members of the committee, Senator Cranston, Senator Sarbanes. Thank you very much for the opportunity to testify today.

I remember fondly my last visit here when I came with the Chinese students. At that time, you demonstrated your leadership, your commitment, your effectiveness, Mr. Chairman, in providing protections to those students, and demonstrated, once again, that you are a champion for human rights throughout the world and in our country.

So, I thank you for your service to our issue at that time and for your leadership on this issue and the opportunity to testify today.

The CHAIRMAN. Thank you very much.

Ms. PELOSI. Your welcome.

The ratification of the convention on the Elimination of All Forms of Discrimination Against Women, it does not seem like there should even be a debate on it. I am pleased to join this distinguished panel in support of the treaty, which has been "under review," as you said, Mr. Chairman, by each successive administration since it was signed by President Carter in 1980.

I understand that the current administration has the convention under "active review." So, hopefully, we may soon see some movement toward ratification.

I know that the women of America would want it to be that way.

I commend you again, Mr. Chairman, for your longstanding interest in this issue, as well as the other Members of the committee, for their longstanding interest in this issue, and for your perseverance in urging the administration to submit the convention for ratification.

Again, the convention on the Elimination of All Forms of Discrimination Against Women is the most comprehensive international agreement for the protection of human rights. It provides legal protection for women against discrimination by reason of sex in political, cultural, and economic spheres, and it outlaws such barbaric practices as the sale of women for prostitution or other purposes.

You are familiar with the terms. I just bring up some to make it seem so logical that this should not be a great debate.

Mr. Chairman, discrimination against women is prevalent today in all parts of the world. It takes different forms in different cultural contexts. Clearly, legal protections of human rights for women are lacking in most countries of the world.

According to the House Select Committee on Hunger, women perform two-thirds of the world's work, receive one-tenth of its income, and own one-one hundredth of its property.

Women continue to suffer from inequities in economic and political life. Since my colleagues have already addressed some of the grievances, I will submit that part of my statement for the record.

It is essential that the United States take a strong and principled stand against gender discrimination by joining, as you mentioned, the 103 other nations which have already ratified the convention. This treaty provides a legal standard against which all governments can be held accountable for their treatment of women. Of course, I join my colleagues in urging its swift ratification.

Ironically, today, Mr. Chairman, on the floor of the House, we are considering the Civil Rights Bill of 1990. We will have a fight on the floor on that bill, which demonstrates that what seems to be a given to some of us when it comes to discrimination is not necessarily a given to all of us, not even all Members of the Congress.

I serve on the Banking Committee, and on the International Subcommittee we have been discussing women in development. I identify myself with the comments of Senator Mikulski about literacy and women. I think no single other element would do more to raise the standard of living in the Third World than the ability of

women to read and the impact that it would have on their families, on their communities, on their societies, and on the economies of their country.

So, this touches people personally, politically, professionally, economically. Women can be full participants in the economic and political life of their countries. We need to ratify this convention.

Mr. Chairman and members of the committee, our country should have provided the leadership on this. We should have been the first country, in our tradition the first country to ratify this. We lost that opportunity. We cannot lose another opportunity and resist the realities of life, the tide of history. We must ratify it.

So, thank you again for the opportunity to testify and for the leadership that you have provided on this issue.

Thank you, Mr. Chairman.

[The prepared statement of Representative Pelosi follows:]

PREPARED STATEMENT OF HON. NANCY PELOSI

Mr. Chairman: Thank you for the opportunity to testify today on an issue of great importance to women—the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women. I am pleased to join the distinguished on the panel in support of the treaty, which has been "under review" by each successive administration since it was signed by President Carter in 1980. I understand that the current administration has the convention under "active review," so presumably we may soon see some movement toward ratification. I commend you, Mr. Chairman, for your longstanding interest in this issue and your perseverance in moving the administration to submit the convention for ratification.

The convention on the elimination of all forms of discrimination against women is the most comprehensive international agreement currently in force for the protection of women's rights. It provides legal protection for women against discrimination by reason of sex in political, cultural and economic spheres and it outlaws such barbaric practices as the sale of women for prostitution or other purposes.

Mr. Chairman, discrimination against women is prevalent today in all parts of the world. It takes different forms in different cultural contexts. Domestic violence is common throughout the world, and often there is no legal recourse for women who are beaten at home. Clearly, severe violations of human rights against women are prevalent in may countries of the world.

According to the House Select Committee on Hunger, "women perform two-thirds of the world's work, receive one-tenth of its income and own one-one hundredth of its property." Clearly, Mr. Chairman, women continue to suffer from inequities in economic and political life. Women entrepreneurs often suffer from lack of access to sources of credit and government services. In the southern hemisphere, women are glaringly absent from high political office. In the United States, women rarely serve on corporate boards. In too many cases, gender discrimination plays a key role in these situations.

It is essential that the United States take a strong and principled stand against gender discrimination by joining the one hundred and three nations which have ratified the convention. This treaty provides a legal standard against which all governments can be held accountable for their treatment of women. I urge its swift ratification.

The CHAIRMAN. I appreciate your testimony very much indeed and that of your colleagues. I will forgo for the moment my opportunity to question you because of the pressure of other witnesses coming along.

But I will turn to my colleague, Senator Boschwitz.

Senator BOSCHWITZ. Thank you, Mr. Chairman. I am sorry that I am late, not only because of the votes but because of another conflicting committee.

If I may, I would like to make a brief opening statement.

The CHAIRMAN. Of course.

Senator BOSCHWITZ. I would say to Congresswoman Pelosi that we indeed have had legislation directed very much at the idea of teaching women how to read, specifically incorporating those things into legislation that we have introduced. I recognize that the inability to read causes them to not be able to function in many ways.

Thank you, Mr. Chairman. I welcome our witnesses today and particularly our colleagues from the Senate and also the House.

Some of my Republican colleagues from the House had also wanted to come, but I understand that several of them, including Representatives Martin, Schneider, and Saiki, are going to submit written statements.

I extend a special welcome today to Arvonne Fraser, who I don't see out there—oh, wait, there she is. She is from Minneapolis and is the wife of the mayor. She has been very active in very many women's efforts over the years, as a matter of fact together with my sister at one point. She is going to testify.

I would say to her in advance that I have somewhere else to go, so I may not be here when she does testify.

Mr. Chairman, improving the lot of oppressed women should, in my view, be at the top of this country's human rights agenda. Women in many parts of the world, as Ms. Pelosi has pointed out, are subjected everyday to unconscionable abuses about which I suspect our witnesses will speak at some length. Together with a number of House colleagues, I recently wrote to the President on this subject, conveying my thoughts that the pace of ratification of this important convention needs to be speeded up considerably.

I would like to submit that letter for the record, along with the administration response.

[The information referred to follows:]

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC.,
June 11, 1990.

The Honorable GEORGE H.W. BUSH,
President of the United States,
The White House, Washington, DC.

Dear MR. PRESIDENT, we are writing to urge administration support for United States ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

The convention was previously submitted to the Senate in November 1980, nearly 10 years ago. In his letter of transmittal to the Senate, President Carter advised that there are no constitutional or other legal obstacles to United States ratification.

U.S. ratification of the Women's Convention has achieved broad-based support from legal, religious, civic, women's and human rights organizations. Two legal studies by the American Bar Association have concluded that there are no significant legal impediments to U.S. ratification.

We understand that the Department of State currently classifies the Women's Convention as "under study." We would like to request that this convention be given priority status by the administration and that the Senate Foreign Relations Committee be urged to hold hearings on U.S. ratification.

Although the United States is a leader among nations in advancing the role of women, we feel that there is still much to be done in this country to eliminate discrimination against women. For example, the Washington Post recently reported a case in which a judge would not allow a married woman to assume here maiden name without her husband's written permission.

U.S. ratification of this convention is equally important for the role of this country as a leading advocate for international human rights. Our diplomatic representatives well know the difficulty of representing the United States in international

forums when we ourselves have not ratified the basic international human rights conventions.

We feel that it is important for this administration to take the leadership in the area of equal rights for women both in the national and international arena as it has in the area of equal opportunity for minorities.

Sincerely,

Claudine Schneider, M.C.; Patricia F. Saiki, M.C.; Marge Roukema, M.C.; Helen Delich Bentley, M.C.; Constance A. Morella, M.C.; Susan Molinari, M.C.; Virginia Smith, M.C.; Lynn Martin, M.C.; Rudy Boschwitz, U.S.S.; Nancy L. Johnson, M.C.; Barbara F. Vucanovich, M.C.; Jan Meyers, M.C.; Ileana Ros-Lehtinen, M.C.

U.S. DEPARTMENT OF STATE,
WASHINGTON, DC.,
June 6, 1990.

The Honorable CLAUDINE SCHNEIDER
U.S. House of Representatives,
Washington, DC.

DEAR MS. SCHNEIDER: The President has asked me to respond to your letter of June 11, concerning the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

As you know, this administration is committed to promoting and protecting the human rights of all individuals, and we are particularly concerned about the rights of women.

Five human rights conventions drafted under U.N. auspices—including CEDAW—are currently pending Senate approval. This administration, like its predecessor, has urged approval. This administration, like its predecessor, has urged the Senate to give priority to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. We hope that the Senate will provide its advice and consent to ratification of this important instrument in the near future.

In anticipation of this development, the administration has already begun to consider which of the unratified U.N. human rights conventions should next receive priority consideration before the Senate. In connection with this review, we are also considering whether ratification would entail any reservations, understandings, or declarations, or would require implementing legislation.

The process of determining which human rights conventions should be recommended for ratification will undoubtedly be time consuming. However, we hope that it will proceed without undue delay.

I hope the foregoing has been helpful to you. Please let me know if I can be of further assistance.

Sincerely,

JANET G. MULLINS,
Assistant Secretary for Legislative Affairs.

Senator BOSCHWITZ. You and I have also had an exchange on this subject in recent weeks, Mr. Chairman, and I know you agree with me that this approval process has dragged on for too long.

I realize that this treaty won't bring about overnight improvement in the way women are treated, but cultural attitudes can and do change. People's attitudes about discrimination and exploitation can and do change. Our history and the history of many other countries demonstrates that.

Mr. Chairman, I urge the administration to act quickly. I will try to help push them in that direction. I appreciate your holding this hearing and would ask unanimous consent that the entirety of my statement be placed in the record.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Boschwitz follows:]

PREPARED STATEMENT OF SENATOR RUDY BOSCHWITZ

Mr. Chairman, improving the lot of oppressed women should, in my view, be at or near the top of this country's human rights agenda. Women in many parts of the

world are subjected every day to unconscionable abuses, about which I suspect our witnesses could speak in some detail for some hours.

Together with a number of House colleagues, I recently wrote to President Bush on this subject, conveying my thoughts that the pace of ratification for this important Convention needs to be speeded up considerably. I'd like to submit that letter for the record, along with the administration's response. You and I have also had a letter exchange on this subject in recent weeks, and I know you agree with me that this approval process has dragged on far too long.

I'm not here to point fingers as to why it's taken so long. I think the blame for that can be allocated among both parties and among both the Executive and Legislative branches.

Rather, what I want to stress is that our voice on this subject in international arenas will be much more effective after we ratify the Women's Convention. This Treaty can move the ball forward. It can give our diplomatic negotiators a more solid, more formal, and more visible backing when broaching this subject with their counterparts in foreign capitals, at the United Nations, and in other international settings.

I realize that this treaty won't bring about overnight improvement in the way women are treated. But cultural attitudes can and do change. People's attitudes about discrimination and exploitation can and do change. Our own history, and the history of many other countries, demonstrates that.

I also realize that this treaty is not a perfect document. It is not on all fours with current U.S. laws. Sometimes, this convention points to problems in our laws. Sometimes, it is the convention that should give way. The convention gets into matters which, in this country, properly fall under the purview of state and local legislation. Since the Treaty is not self-executing, Americans will have to consider what changes in our laws are appropriate.

So it is clear to me that, when we agree to support this important Treaty, we will, like other countries who are already signatory, have to make several reservations. But let's get on with this task.

I urge the administration to give the Women's convention the high priority it deserves—and that the women of the world deserve. I urge the administration to complete its review so that the Senate can get on with our part of the ratification process.

The women of the world have been subject to discrimination and abuse for a long, long time. Some of my listeners may think that women should therefore be patient and wait a year or two more to make sure all the lawyers agree on all the wording. Well, maybe women don't want to wait that long to end this kind of injustice. I don't think they should have to wait.

Mr. Chairman, I urge the administration to act as quickly as possible to bring forward a position we can get behind. I look forward to a prompt administration response.

The CHAIRMAN. The Senator from Maryland, Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

First, I want to commend you very strongly for holding this hearing and seeking to move this convention on the agenda. The administration, successive administrations, have now had this matter "under review," and, while we are always interested in what the administrations think, it seems to me if they cannot bring that review to a speedy close, we may need to move ahead without it, frankly. I would press Mr. Kreczko on this issue when he testifies subsequent to this panel.

Second, I want to thank my colleagues in the Congress—Senator Mikulski, Congresswoman Oakar, and Congresswoman Pelosi—for their very strong and effective statements and, even more, for their very strong and effective leadership on this issue over a number of years. In fact, I think their efforts have had a good deal to do with not only the advance that is represented by the convention but with other advances that have been made.

Finally, I would simply close with this observation.

It seems to me this convention is, in a sense, the remaining link that needs to be put into place in order to construct an overall,

comprehensive, international human rights framework that encompasses all aspects. Notoriously, the rights of women have not been fully encompassed within that international framework. This convention would accomplish that.

For this reason, in addition to the many others, it seems to me a very strong argument to move on this matter here in the committee and on the floor of the Senate.

Again, I thank you for holding the hearings and for the leadership you have exercised on this very important question.

The CHAIRMAN. Thank you very much, indeed.

Senator Cranston, do you have any questions?

Senator CRANSTON. No, I do not have any at this time.

I thank all three witnesses for their very, very effective and fine testimony.

The CHAIRMAN. Thank you.

Senator Kerry.

Senator KERRY. Mr. Chairman, thank you.

First of all, Mr. Chairman, I would like to apologize to the panel for not being able to hear the testimony. We are, unfortunately, bouncing between the Banking Committee, where we have the Attorney General and Mr. Seidman on the fraud issue, and I am going back and forth on that.

I also want to join Senator Sarbanes and others in congratulating you on proceeding forward with this, Mr. Chairman. I know that your support of it is not suddenly found.

Two years ago, you gave me permission, because of your support of this, to hold a field hearing on this very convention in Massachusetts. I believe that we established a good record in that to help us to proceed forward. I think your support of this is obviously longstanding, and I applaud you for pushing it at this moment in time.

I would just like to say that I am not going to ask any questions. But I was reading the record of transmittal. The letter of transmittal was signed by Edmund Muskie in 1980. Here we are, in 1990, several Secretaries of State later and now in our third Presidency term since them. It is just disgraceful that this country, our country, has seen fit to dawdle on an issue as fundamental to human rights as this issue.

I think that for us in this country to deny what is at stake here loses us the high moral ground and sets us back in advocacy on a host of other issues and efforts around the world. It is extraordinary that we should be struggling, really, to pass it at this point in time.

I also think, Mr. Chairman, that this convention calls on us to be honest about the situation in our own country, that we have enormous amounts of discrimination here, and that there is still a significant and absolutely unexplainable gap between men and women and what each can enjoy in terms of rights in our country—whether it is employment rights, promotion, job training, payment, a whole host of them.

This convention reasserts our commitment to redress those imbalances. I think it is long, long since overdue and I hope that today's hearing is going to be the beginning of a rapid process of moving toward advice and consent.

The CHAIRMAN. I thank you very much, indeed. We will do our best to push ahead.

I thank the congressional witnesses very much, our colleague, Senator Mikulski, and Congresswomen Oakar and Pelosi, for being with us. Thank you very much, indeed.

We now come to the administration's witness, Mr. Alan Kreczko, the Deputy Legal Adviser in the Department of State, who I hope will shed some enlightenment on the reasons for delay in considering this matter and on how we might move ahead.

Senator KERRY. Mr. Chairman, may I have unanimous consent that my full statement be placed in the record.

The CHAIRMAN. Without objection, the statements of any of our colleagues will be inserted in the record in full.

Senator BOSCHWITZ. Mr. Chairman, I would say with some pride that the so-called secretariat that oversees the whole business that is part of this treaty is in Minnesota, under the direction of Ms. Fraser. It is at the Hubert Humphrey Institute, which is certainly appropriate as well.

The CHAIRMAN. I look forward to hearing from her. She will be testifying on the next panel after the administration.

Mr. Kreczko, I hope you will enlighten us and also give us support in moving ahead with the ratification of this treaty.

STATEMENT OF ALAN KRECZKO, DEPUTY LEGAL ADVISER, DEPARTMENT OF STATE, ACCOMPANIED BY, DAVID BALTON, ATTORNEY-ADVISER, OFFICE OF THE LEGAL ADVISER, DEPARTMENT OF STATE

Mr. KRECZKO. Thank you, Mr. Chairman.

I am pleased to be here to participate in the consideration of the convention on the Elimination of All Forms of Discrimination Against Women.

I have a written statement to be submitted for the record and will keep my oral remarks brief.

The CHAIRMAN. I thank you.

Your statement will be inserted in the record in full, as if read.

Mr. KRECZKO. Thank you.

The United States is committed to the goal of eliminating discrimination against women. We promote this goal in the conduct of our foreign policy as well.

Our annual reports on the human rights situations in other countries contain a section devoted specifically to discrimination against women, and we have undertaken successful initiatives in the United Nations Commission on the Status of Women.

To further these same ends, we took active part in the elaboration of the Women's Convention and voted in favor of its adoption by the United Nations in 1979. My written statement reviews the history of that convention and the manner in which it has been received by the international community since its adoption.

Here I will only attempt to summarize that information and to outline a number of domestic legal concerns raised by the convention.

Before doing that, though, Mr. Chairman, I would note that there are a number of human rights treaties before the Senate, in-

cluding, in addition to this convention, the convention on the Elimination of Racial Discrimination, and the International Covenant on Civil and Political Rights.

The United Nations has also recently adopted a Convention on the Rights of the Child.

Of these various treaties, the Bush administration early on identified the Torture Convention as its priority for ratification. We believe that this committee shared that priority, and we have worked closely with the committee on a resolution of advice and consent.

We are gratified that the committee's draft resolution incorporated the administration's proposed package of reservations, understandings, and declarations, and we hope that the full Senate can act on it expeditiously.

In anticipation of this development, the administration has already begun to consider which of the unratified U.N. human rights conventions should next receive priority consideration before the Senate. We hope to have the same close, cooperative, working relationship with the committee in that process as we had on the Torture Convention, and we will certainly take into account the views expressed at today's hearing.

Senator SARBANES. Mr. Chairman, may I interrupt the witness right there?

The CHAIRMAN. Yes.

Senator SARBANES. You are not tracking your statement, is that correct, at this point?

Mr. KRECZKO. The written statement, as submitted?

Senator SARBANES. Yes.

Mr. KRECZKO. I think I understand what you are referring to, Senator.

Senator SARBANES. What I am referring to very specifically is your written statement says: "As soon as the Torture Convention passes the Senate, we will review the other conventions to see which deserve priority for Senate consideration."

Mr. KRECZKO. Yes, sir.

Senator SARBANES. As I heard you just now, you have departed from that position. Is that correct?

That is a position that I regard as totally unacceptable, I must say to you—absolutely unacceptable. But I take it you have departed from that position?

Mr. KRECZKO. Yes, sir.

Senator SARBANES. Do you amend your written statement accordingly, because I think you asked to have the written statement included in the record, with that sentence in it, I take it? Is that correct?

Mr. KRECZKO. Yes, sir. But I think the——

Senator SARBANES. Well, why don't we straighten that out right now, before we pass beyond it.

The CHAIRMAN. That's a good point.

Mr. KRECZKO. I am quite willing to try to address that, in fact.

The CHAIRMAN. Answering the Senator's question, how would you think it should read?

Mr. KRECZKO. The sentence I have presented orally is an accurate statement of our position. I believe it was reflected in a letter back to Senator Boschwitz concerning his support for the conven-

tion, and that is: "In anticipation of the Senate's action on the Torture Convention, the administration has already begun to consider which of the unratified U.N. human rights conventions should next receive priority consideration before the Senate."

Senator SARBANES. Well, why are you establishing any linkage whatever? I mean, we had a Torture Convention, this committee has acted on it, it has reported it out of committee, and, hopefully, we'll be able to get floor action.

I mean, can you only do one convention at a time?

Mr. KRECZKO. Senator, we have worked very closely with this committee. I have consulted with committee staff throughout the Torture Convention practice on both the majority and minority side; with the human rights groups; with the American Bar Association.

Senator SARBANES. I am not faulting your conduct on the Torture Convention. I am only trying to find out why you cannot be doing other conventions simultaneously with it, and, in particular, this one.

Mr. KRECZKO. The point that I wanted to make, Senator, is that in that consultative process, no one suggested to us that we should be trying to do another human rights convention simultaneously.

We explained, as we were moving through the Torture Convention, that, when it was concluded, we wanted to move on to other human rights conventions. No one in that consultative process took issue with that process.

Senator SARBANES. Well, now, Secretary Baker sent a letter to Chairman Pell in May 1989, saying that you were reviewing the Women's Convention.

Is that correct?

Mr. KRECZKO. Yes, sir.

Senator SARBANES. And yet, you have a written statement here that says, "As soon as the Torture Convention passes the Senate, we will review the other conventions."

Mr. KRECZKO. Yes.

Senator SARBANES. Well, you can review them. I mean, I assume later here in your statement you are going to express a lot of problems with this convention. Is that correct?

Mr. KRECZKO. We will identify the inconsistencies in the convention with existing U.S. law. Yes, sir.

Senator SARBANES. Are you also going to identify how you propose to resolve what you perceive as problems?

Mr. KRECZKO. We are not in a position to do that at this point.

Senator SARBANES. Why not?

Mr. KRECZKO. As I said——

Senator SARBANES. Is it because you have not done the review?

Mr. KRECZKO. Yes, sir. Correct.

Senator SARBANES. But Secretary Baker said more than a year ago that you were reviewing it.

It is one thing how fast we can move them on the legislative agenda. It is another thing if the administration has prepared them so that they can be moved.

I take it what you are going to tell us today is that you are not ready to move these things because you have not prepared how you

think we should deal with the various problems you are going to identify.

Is that correct?

Mr. KRECZKO. That's correct. But I would also like to say that in the process—and we worked very closely with this committee—no one suggested that we should be doing that simultaneously.

Senator SARBANES. Should be doing what?

Mr. KRECZKO. That we should be preparing the package on the other conventions or moving them forward.

Senator SARBANES. Well, that's not correct. I mean, we inquired about this thing repeatedly and you've told us they're under review. It is reasonable for us to assume that you have some interest—you want to move the convention, don't you?

Mr. KRECZKO. We have not made a decision on which convention we would like to move next.

Senator SARBANES. Aside from which one you want to move next, do you want to move this one at some point?

Mr. KRECZKO. We have not completed that review, Senator.

Senator SARBANES. Oh. Well.

The CHAIRMAN. Excuse me. Before leaving that point, which you so ably touched on, will you change the language of the statement that you are having inserted into the record, then, to knock out the reference to "As soon as the Torture Convention passes?"

Mr. KRECZKO. Yes, sir.

The CHAIRMAN. So, that is now stricken from the record?

Mr. KRECZKO. Yes, sir. We can substitute this other sentence.

The CHAIRMAN. Would you repeat that sentence again?

Mr. KRECZKO. "In anticipation of this development," meaning Senate approval of the Torture Convention, "the administration has already begun to consider which of the unratified U.N. human rights conventions should next receive priority consideration before the Senate."

The CHAIRMAN. That is an improvement, but it is not what we had hoped to hear.

Carry on.

Senator SARBANES. Well, you may slot one of the other ones in ahead of this one; is that right?

Mr. KRECZKO. Well, we are open to views on which of the conventions should come next. There is a lot of congressional interest in the rights of the child; there clearly is a lot of interest in the convention on the Elimination of Discrimination Against Women. I would say there is also the Civil and Political Rights Covenant, which some people in the human rights community believe really is the most important of the unratified human rights conventions.

So, we are open to the views of the committee and of interested human rights groups on whether we should be choosing one of these as a priority, whether we should be trying to move more than one of them simultaneously.

We had a good, consultative, working relationship with the committee on the Torture Convention and we would like to continue that working relationship.

Senator SARBANES. Well, Mr. Kreczko, let me make this point to you. It is one thing how we move them in the legislative context, whether we can move them simultaneously or have to do it con-

secutively. It is quite a different thing whether the administration has done the preparatory work so that they can be moved.

You obviously have not done it on this convention from what you are now telling me.

Mr. KRECZKO. Senator, I don't think that it is fair to characterize this administration as inattentive to human rights treaties.

Senator SARBANES. I don't think I have done that—yet. [General laughter.]

I mean, you may get me there yet this morning. But I have not done that yet.

Mr. KRECZKO. We early on indicated that a human rights treaty was in the highest priority category of treaties that we submitted to this committee. We indicated that we thought the priority should be the Torture Convention. We worked closely and we worked hard with this committee over the past year to bring it to a point where it is ready for Senate action.

Senator SARBANES. Now let me ask you this question.

You say in your statement, "The United States, as you know, has long been committed to the goal of eradicating discrimination against women."

Mr. KRECZKO. Yes, sir.

Senator SARBANES. That, I take it, is the goal of this administration as well.

Mr. KRECZKO. Yes, sir.

Senator SARBANES. Now, do you encompass, within achieving that goal, the ratification of this convention?

Mr. KRECZKO. As I said, Senator, we have not completed the review of the consistency of the convention with domestic law.

Senator SARBANES. How long will it take you to do that review?

Mr. KRECZKO. I cannot give you a specific timeframe for that.

Senator SARBANES. Is it a matter of weeks?

Mr. KRECZKO. I can give you as a benchmark the exercise that we undertook at the behest of the chairman on the Torture Convention, when he asked us to look again at the original package of reservations, understandings, and declarations. We went through an interagency process and then a consultative process. I would say that that took a couple of months.

Senator SARBANES. A couple of months?

Mr. KRECZKO. Yes, sir.

Senator SARBANES. And you think that is a reasonable time period as you address this convention?

Mr. KRECZKO. We had the advantage in the Torture Convention of having had a preexisting package of reservations to work from. We also had a convention that was almost completely consistent with U.S. law.

We are not starting in the same framework with this convention. Even the Carter administration, when it sent up the convention, did not identify proposed reservations, understandings, and declarations.

Senator SARBANES. Have you done so?

Mr. KRECZKO. No, sir.

Senator SARBANES. You have not begun that exercise?

Mr. KRECZKO. We have begun the review, and in my written testimony are the initial comments of the Justice Department on it.

Senator SARBANES. Mr. Chairman, I'm sorry for the delay. Why don't I hear out the balance of Mr. Kreczko's testimony.

The CHAIRMAN. OK. Thank you very much.

Carry on, Mr. Kreczko.

Mr. KRECZKO. Thank you, sir.

We will also work closely with the committee in the development of an appropriate package of reservations, understandings, and declarations with respect to those conventions that we agree should move forward at this time.

I would now like to turn briefly to the convention itself.

The convention was negotiated over roughly 4 years. It builds on the Universal Declaration of Human Rights and other human rights instruments concluded in the United Nations and its affiliated bodies.

It was concluded in 1979 and entered into force in 1981.

President Carter transmitted the convention to the Senate in 1980. His transmittal letter stated that much of the convention was consistent with the U.S. Constitution and existing laws. However, it also noted that many of the provisions presented legal concerns. Those areas of concern centered on Federal/State relations and on the inability of the Government to regulate interpersonal relationships.

Aside form these concerns, the Carter transmittal noted potential conflicts between U.S. law and roughly one-half of the substantive articles, including articles 2, 7, 10, 11, 12, and 14. The Carter transmittal did not propose specific reservations, understandings, and declarations to remedy these concerns.

This administration regards the convention as an important human rights treaty. In our view, the object and purpose of the convention comport with the Constitution and with Federal law. However, as with all human rights treaties, the convention raises a number of legal questions that need to be addressed.

The Department of Justice has conducted a preliminary review of potential conflicts between the convention and current law, the results of which are indicated in the testimony that I have submitted for the record.

This preliminary review confirms the major areas of concern identified in the original transmittal package. First, on federalism, several articles of the convention address areas traditionally considered to be within the province of State governments, such as education and family relations.

Second, private conduct: Several articles of the convention could be construed to require the United States to regulate conduct traditionally considered beyond the scope of governmental power at any level. For instance, article 5 implies regulation of the social and cultural patterns of conduct of men and women. Article 7 seeks to regulate the participation of men and women in nongovernmental organizations and associations concerned with the public and political life of the country.

On military forces, article 2(f), with its broad nondiscrimination requirement, would shed doubt upon inter alia longstanding military policies barring women from combat missions.

Employment, article 11(1)(d) could be construed to require legislation providing a cause of action for employment discrimination

based upon comparable worth, which the Federal courts have, heretofore, resisted addressing.

Other concerns are indicated in my testimony.

Mr. Chairman, these are my introductory comments. We appreciate the close working relationship that we had with the committee on the Torture Convention and we look forward to working with the committee on other human rights treaties.

[The prepared statement of Mr. Kreczko follows:]

PREPARED STATEMENT OF ALAN J. KRECZKO

Mr. Chairman, distinguished Members of the Committee, Ladies and Gentleman: I am pleased to be here to participate in your consideration of the Convention on the Elimination of All Forms of Discrimination Against Women, which I shall refer to as "CEDAW" for the sake of brevity.

The United States, as you know, has long been committed to the goal of eradicating discrimination against women. In the conduct of our foreign policy, the Department of State has strived to make this a universal goal as well, urging all countries of the world to protect and promote the human rights and fundamental freedoms of all persons, men and women alike.

The Department seeks to implement this goal in a variety of ways. For example, we include within our annual reports on the human rights situation in other countries a section which specifically addresses discrimination against women. These country reports provide some of the most detailed and comprehensive information on human rights throughout the world, and are widely cited in both domestic and international forums.

We also participate actively in the U.N. Commission on the Status Women. Among the United States efforts that bore fruit at the most recent session of the Commission were a successful initiative to improve the handling of complaints of discrimination against women, the adoption of a resolution cosponsored by the United States to prevent violence against women in detention, and further progress toward our long-term goal of improving the status of women in the U.N. Secretariat.

The U.S. Agency for International Development also provides assistance to countries to promote the rights of women in development.

To further these same ends, we took active part in the elaboration of CEDAW and voted in favor of its adoption by the United Nations in 1979. In my testimony today, I shall briefly review the history of that convention and the manner in which it has been received by the international community since its adoption. I will also outline a number of domestic legal concerns raised by CEDAW.

As the committee knows, there are a number of human rights instruments before the Senate. In addition to CEDAW, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the American Convention on Human Rights have been signed and transmitted. Moreover, the United Nations has also recently adopted the Convention on the Rights of the Child.

Early on, the Bush administration identified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as our top priority for ratification. We believe that this committee shared that priority and that the Senate is now in a position to provide its advice and consent to ratification of that treaty. The administration urges you to do so expeditiously so that we may use the Torture Convention more effectively to seek the abolition of torture worldwide.

This will entail the development of reservations and understandings to meet various legal concerns. In the case of CEDAW, we will be basically starting from scratch. Unlike the other human rights treaties, CEDAW reached the Senate without any specific proposed reservations, though President Carter's transmittal letter and its enclosures did note numerous legal issues that had to be resolved. The Department of Justice has begun the process of reviewing those legal issues. We will also be taking into account the views expressed at this hearing.

BACKGROUND OF CEDAW

Turning now to CEDAW itself, I would like to give you a brief overview of its history and present status.

Like all of the human rights treaties, CEDAW took many years to evolve. Its lineage can be traced to a series of much earlier treaties affecting the rights of women.

Perhaps the earliest of these is the 1904 Agreement for the Suppression of White Slave Traffic, which the United States ratified in 1908. The United States has also ratified the '1933 Convention on the Nationality of Women and the 1948 Inter-American Convention on the Granting of Political Rights to Women.

CEDAW also builds upon more general obligations in other human rights instruments. Article 3 of the United Nations Charter sets forth as one of the purposes of the Organization "to achieve international cooperation * * * in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion." In the same vein, Articles 55 and 56 of the Charter oblige all Members of the United Nations to take joint and separate action to promote such human rights and fundamental freedoms, also without distinction as to race, sex, language, or religion.

Shortly after the establishment of the United Nations, its Commission on Human Rights undertook the task of drafting the Universal Declaration of Human Rights. Its chairman in those years was Eleanor Roosevelt of the United States. In 1948, the Commission produced, and the General Assembly adopted, the Universal Declaration "as a common standard of achievement for all peoples and all nations."

The Universal Declaration sets forth a broad range of human rights, many of which derive from principles contained in the Constitution of the United States and our Declaration of Independence. Article 2 of the Universal Declaration, which serves as a prism through which each of the rights in that instrument must be viewed, declares that everyone is entitled to those rights without distinction of any kind, including sex.

After adoption of the Universal Declaration, the United Nations continued to draft more specific declarations in the field of human rights, including the 1967 Declaration on the Elimination of Discrimination Against Women. The Organization also began to elaborate binding human rights instruments, beginning with the Genocide Convention and the two International Covenants. These latter two treaties, signed but not ratified by the United States, contain general antidiscrimination clauses of the sort found in the Universal Declaration.

Prior to CEDAW, the United Nations and its affiliated bodies produced several other treaties bearing on the rights of women. Of these, the most notable include the 1952 Convention on the Political Rights of Women (which the United States ratified in 1976), the 1957 Convention on the Nationality of Married Women, the 1960 Convention Against Discrimination in Education, and several conventions of the International Labor Organization concerning the rights of women workers.

The effort to draft CEDAW began in the mid-1970's and concluded on December 18, 1979. On that day, the United Nations General Assembly adopted Resolution 34/180 approving CEDAW and opening it for signature and ratification. The United States was in the large majority of Members that voted in favor of that Resolution.

CEDAW entered into force on September 3, 1981 following the deposit of the twentieth instrument of ratification. At present, 103 States have become party to the Convention, and a number of others, like the United States, have signed but not ratified.

SYNOPSIS OF CEDAW

Viewed in its simplest terms, CEDAW is an antidiscrimination treaty. Article 2 of CEDAW, for example, requires States Parties to "establish legal protection of the rights of women on an equal basis with men." Similarly, Article 3 seeks to ensure that women exercise and enjoy "human rights and fundamental freedoms on a basis of equality with men."

Some additional CEDAW provisions require specific protection for women. For example, Article 6 seeks to suppress traffic in women and exploitation of prostitution of women. Article 11, which generally prohibits employment discrimination on grounds of sex, also addresses employment issues relating to pregnancy and maternity.

As envisioned in Part V of CEDAW, there has been established a committee on the Elimination of Discrimination Against Women. This committee is composed of independent experts in the field, nominated and elected by States Parties to CEDAW. The primary purpose of the committee is to review periodic reports from the States Parties on measures they have taken to implement the Convention in their country. The committee makes suggestions and general recommendations on the basis of its examination of the reports, but has no power or authority to issue binding decisions or otherwise to enforce the provisions of the Convention.

RATIFICATION BY OTHER STATES

Although 103 States have become parties to CEDAW, many of them have qualified their adherence to the Convention with reservations, understandings and declarations. Most of these qualifications are limited or technical, but several of them bear mention.

A number of Islamic states have, in one fashion or another, made their adherence to certain provisions of the Convention contingent on the congruity of those provisions with Koranic law. For example, the Government of Bangladesh has entered a reservation providing that it does not consider itself bound by several central provisions of the Convention because "they conflict with Shariah law based on Holy Koran and Sunna." These reservations have provoked objections from several other States Parties on grounds that they are incompatible with the object and purpose of CEDAW.

Some States Parties have entered other reservations or understandings to the effect that adherence to the Convention shall not require the repeal of regulations barring women from combat duty or from certain physically hazardous occupations. Others have reserved to the requirements pertaining to equal marital and property rights of men of women. Still others have sought to modify those provisions of CEDAW bearing on the acquisition of nationality for alien women and their children.

At least two States Parties have dealt with possible conflicts between CEDAW and their own constitutions. The Government of Thailand has declared that it: wishes to express its understanding that the purposes of the Convention are to eliminate discrimination against women and to accord to every person, men and women alike, equality before the law, and are in accordance with the principles prescribed by the Constitution of the Kingdom of Thailand.

Tunisia has declared that it: shall not take any organization [sic] or legislative decision in conformity with the requirements of this Convention where such a decision would conflict with the provisions of Chapter 1 of the Tunisian Constitution.

The Thai formulation is essentially a sweeping understanding that there is, in the view of Government of Thailand, no conflict between their constitution and CEDAW. The Tunisian formulation, by contrast, constitutes an express reservation to any provision of CEDAW deemed by Tunisia to conflict with its constitution. Other States Parties have vigorously objected to this approach.

A final qualification worth noting is the one entered by Australia on the subject of its federal-state system: Australia has a Federal Constitutional System in which Legislative, Executive and Judicial Powers are shared or distributed between the Commonwealth and the Constituent States. The implementation of the Treaty throughout Australia will be effected by the Commonwealth, State and Territory Authorities having regard to their respective constitutional powers and arrangements concerning their exercise.

Australia terms this language a "declaration." Australia likely entered it in light of Article 24, which otherwise obliges States Parties to "undertake to adopt all necessary measures national aimed at achieving the full realization of the rights recognized in the present Convention." Australia's "declaration," which arguably operates as a reservation to Article 24, does not appear to modify any of the substantive requirements of CEDAW, but merely explains a division of labor between Australia's federal and local governments in implementing the Convention. Australia's declaration has drawn no objection from other States Parties.

UNITED STATES ACTION ON CEDAW

This last qualification, which has direct relevance to the United States, leads me to the next part of my presentation, in which I would like to raise a number of issues that require resolution before the United States could ratify CEDAW.

As I noted at the outset, the United States participated actively in the drafting of CEDAW and voted in favor of Resolution 34/180 of the General Assembly. In explanation of vote, the U.S. representative in the General Assembly stated that, while we were not entirely happy with the 10th and 11th preambular paragraphs (which include language on disarmament and decolonization irrelevant to the Convention), we supported the basic principles of the Convention. He nevertheless noted that some provisions of the Convention might, upon comprehensive review, raise "difficulties of a Constitutional nature, particularly in relation to our Federal-State system."

The Convention was signed on behalf" of the United States on July 17, 1980. Four months later, on November 12, President Carter transmitted it to the Senate seeking advice and consent to ratification. In his transmittal letter, President Carter

noted that, while "the great majority of the substantive provisions of the Convention are consistent with the letter and spirit of the United States Constitution and existing laws * * * certain provisions of the Convention raise questions of conformity to current United States law."

President Carter's transmittal letter did not, however, propose specific reservations, understandings and declarations to remedy these concerns. Instead, it enclosed a report from the Department of State and a Memorandum of Law identifying "those areas of concern that will require further discussion and treatment." Those areas of concern centered on federal state relations and on issues relating to interpersonal relationships. Aside from these concerns, the Memorandum of Law noted potential conflicts between U.S. law and Articles 2, 7, 10, 11, 12, and 14 of the Convention.

This administration regards CEDAW as an important human rights treaty. In our view, the object and purpose of the Convention are in full accord with the Constitution of the United States and with federal law. However, as with all human rights treaties, CEDAW raises a number of legal concerns that would need to be resolved.

The Department of Justice has conducted a preliminary review of the potential conflicts between CEDAW and current law. Based on that review, I would like to draw the Committee's attention to several major areas of potential conflict. I would stress that these comments are preliminary and are limited to major topics of concern. They do not, for example, undertake to repeat all the concerns mentioned in President Carter's transmittal of the Convention to the Senate.

1. *Federalism.* Several articles of the Convention would obligate the United States to undertake antidiscrimination initiatives in areas traditionally considered to be within the province of State governments. For example, Articles 10 and 16 deal, respectively, with education and family relations—two subjects predominantly within the jurisdiction of the various States. In particular, the federal government would be obligated to require "revision of textbooks" to eliminate "stereotyped" sex roles, Art. 10(c), to ensure that women shall enjoy the "same opportunities to participate actively" in school sports, Art. 10(g), and to "specify a minimum age for marriage," Art. 16(2).

2. *Private Conduct.* Several articles of the Convention could be construed to require the United States to regulate conduct traditionally considered beyond the scope of governmental power at any level. For instance, Article 5(a) would obligate the United States "[t]o modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority of either of the sexes or on stereotyped roles for men and women." This language might be read to sweep within the Convention private interpersonal relationships. Article 7(c) would obligate the United States to assure women, "on equal terms with men," the right to participate "in nongovernmental organizations and associations concerned with the public and political life of the country." This provision would appear to reach the principles of internal organization applied by political parties and private interest groups. Of course, there are no difficulties in complying with these antidiscrimination principles insofar as they apply to commercial activity, including employment, accommodation or associations intended to facilitate such activity, or to any activity sponsored, funded, or provided tax exemptions by the government.

3. *Additional Spending Obligations.* Several provisions of the Convention could be construed to require expansion of current federal benefit programs, with the attendant consequence of increasing demands upon the budget. For example, Article 14(2) would require the United States to ensure to women in rural areas "the right * * * [t]o have access to adequate health care facilities." We are aware of no such guarantee under current law.

4. *Military Forces.* Article 2(f) requires the United States to "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." This broad requirement would shed doubt upon, *inter alia*, longstanding military policies barring women from combat missions.

5. *Employment.* Article 11(1)(d) would require the United States to ensure "[t]he right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value * * *" This language could be construed to require legislation providing a cause of action for employment discrimination based upon the controversial "comparable worth" theory. The federal courts have rejected application of this theory in suits under Title VII of the Civil Rights Act of 1964. See *International Union, UAW* v. *Michigan*, 886 F.2d 766, 769 (6th Cir. 1989) ("Mere failure to rectify traditional wage disparities that exist in the marketplace between predominantly male and predominantly female jobs is not actionable."). See also *American Fed'n of*

State, County & Mun. Employees v. *Washington*, 770 F.2d 1401, 1408 (9th Cir. 1985) (Kennedy, J.); *American Nurses' Ass'n* v. *Illinois*, 783 F.2d 716, 720–21 (7th Cir. 1986).

Article 11(1)(f) would obligate the United States to ensure "[t]he right to protection of health and safety in working conditions, including the safeguarding of the function of reproduction." In its coming term, the Supreme Court will address for the first time the validity of policies by which female employees are excluded from particular jobs that may harm their reproductive functions. See *International Union*, v. *Johnson Controls, Inc.*, 886 F.2d 871 (7th Cir. 1989), *cert. granted* 110 5. Ct. 1522 (1990). Should the Court find such policies impermissible under current law, Article 11(1)(f) might be read to obligate Congress not only to overturn that decision by statute but, further, to place employers under an affirmative obligation to implement such policies.

CONCLUSION

Thank you for this opportunity to participate in your consideration of CEDAW. Once advice and consent to the Torture Convention has been achieved, we look forward to working with you to determine which of the other human rights treaties ought to come.next. In that context, we will certainly take into account the views expressed on CEDAW at this hearing.

The CHAIRMAN. Thank you very much, Mr. Kreczko. I have a couple of questions.

First, are you prepared to make a commitment to work with our committee to put together as soon as possible a package of conditions that would resolve the problems the administration has with the Women's Convention?

Mr. KRECZKO. Mr. Chairman, we have not reached a decision on which convention or conventions should could next. That is one of the things we would like to consult on.

The CHAIRMAN. But you have some "wiggle room," and we say "as quickly as possible" a package of conditions that would resolve the problems. All that we are asking of you—maybe this is too much; I hope not—is that you make a commitment to work with our committee staff and with our committee to move ahead as quickly as possible on the Women's Convention and the other conventions, too. You can work on them simultaneously. If you work on one, it does not mean that you can't work on another.

Mr. KRECZKO. Well, Mr. Chairman, that is an issue, again, on which we would solicit advice.

There is a perception, and you and the other Senators have been here longer and can correct it, but there is a perception that by sending up four treaties at the same time, which is the tactic that President Carter chose in 1978, and asking to have all of them considered at the same time, any flaw identified in any convention then became associated with each of the conventions.

That is a concern that we have, and we are open to suggestions on it.

The CHAIRMAN. Well, let me reverse it. Are you saying that you cannot make a commitment to working with our committee to put together a set of conditions?

Mr. KRECZKO. Senator, we can certainly work with the committee to identify the concerns and to discuss how they might be addressed. But I am not in a position to say that there is an administration decision that we should move to the step of formally asking for a package of reservations, understandings, and declarations.

The CHAIRMAN. But you can, I would think, make a commitment to work together, as you have in part, with our committee to try to work out the wrinkles in the Women's Convention?

Mr. KRECZKO. We can certainly identify the areas of concern and discuss how they might be addressed. But I don't want to mislead, to say that there is now a decision that we think that convention should move forward at this time.

The CHAIRMAN. Then let me put it in reverse. Does what you say mean that there is no prospect of the administration working immediately with the committee on the Women's Convention. Is that what you are saying?

Mr. KRECZKO. No, I am not saying that, Mr. Chairman.

I am saying that we are willing to work with the committee in identifying the areas of concern and we will discuss how they might be resolved. But I cannot commit that the administration believes that the convention should move forward next.

The CHAIRMAN. I believe that it was about a year ago that Secretary Baker indicated to me that the administration was reviewing this convention. I think that is in our exchange of correspondence.

What is the present status of your review?

Mr. KRECZKO. Of this convention? We have had a preliminary review by the Department of Justice for consistency with U.S. domestic law, and that is reflected in the testimony which I have submitted for the record.

The CHAIRMAN. What other agencies do you have to check it out with?

Mr. KRECZKO. I think HHS would be another agency with an interest, and I assume, as well, the Defense Department.

The CHAIRMAN. If this convention is identified as the first one with priority interest in the Congress, would that mean that you would change your focus and focus on this one?

Mr. KRECZKO. Senator, I don't think the administration would agree that you can dictate to us what should be our next priority.

We do envision a consultation with you. As I say, there also appears to be a good measure of congressional interest in the Rights of the Child Convention.

Senator SARBANES. But we have not signed that one yet, have we?

Mr. KRECZKO. No, we have not, Senator.

The CHAIRMAN. The Reagan administration had this convention under review for about 8 years. Did any analysis or recommendation come out of the Reagan administration for consideration by the Bush administration?

Mr. KRECZKO. Not that I am aware of, Senator.

The CHAIRMAN. Thank you.

I would turn to Senator Sarbanes.

Senator SARBANES. It was essentially in cold storage during the Reagan administration, wasn't it?

Mr. KRECZKO. Senator, I think it is not fair to basically point the finger exclusively at the executive branch on action on treaties.

The executive branch tried for 30 years on the Genocide Convention; the Reagan administration did work on the Genocide Convention. It took us a long time to get that through the Senate.

One of the things that we do have to bear in mind is that there has been a certain antipathy in the Senate to human rights conventions as a method of affecting domestic law.

Senator SARBANES. I think that is a reasonable point. I don't quarrel with that.

But I do think it is fair to say that this particular convention was, in effect, put into deep freeze within the Reagan administration.

Mr. KRECZKO. I think in that administration the priority was the Genocide Convention; and then it focused on the Torture Convention thereafter.

Senator SARBANES. Well, this had so little priority it wasn't even looked at, was it? It was just set aside, wasn't it?

Mr. KRECZKO. As I say, the priorities were Genocide and then Torture.

Senator SARBANES. Let me ask you this question.

I take it that, in view of the amendment that was made to your written statement earlier, on page 2, that the conclusion should also be amended. Is that correct?

Mr. KRECZKO. Yes, sir.

Senator SARBANES. It says, "Once advice and consent to the Torture Convention has been achieved." So, we will knock that sentence out as well, is that correct?

Mr. KRECZKO. Yes, Senator.

Senator SARBANES. OK.

Mr. KRECZKO. But in view of the focus on this particular sentence, I would like to make another point. It is this.

The administration would like to see the Torture Convention moved through the Senate.

Senator SARBANES. Oh, we understand that. So would we.

Mr. KRECZKO. I understand that.

Senator SARBANES. In fact, we moved it through this committee under somewhat difficult circumstances, as I am sure you are aware.

Mr. KRECZKO. Yes, sir.

Senator SARBANES. Let me ask you this question.

There are, in fact, five conventions that have been sent to the Senate and are pending. Is that right?

Mr. KRECZKO. Five human rights conventions?

Senator SARBANES. Well, six, counting the Torture Convention, which has been reported out of this committee. There is a Convention on Women, on Racism, on Civil and Political Rights, on Economic, Social and Cultural Matters, and the Inter-American Human Rights Convention.

Is that correct?

Mr. KRECZKO. Yes, sir.

Senator SARBANES. Now, those are all here.

Mr. KRECZKO. Yes.

Senator SARBANES. I mean, the committee has jurisdiction of those. Is that correct?

Mr. KRECZKO. Yes, sir.

Senator SARBANES. Now, is there any reason downtown, in your shop, why you could not work with the committee, in effect, in preparing these conventions to move forward as one considers them

and looks at possible reservations, understandings, or declarations, that would prevent working on more than one of them at the same time—preparing them to be considered?

Now, the consideration of them in a sense has to come one at a time because, by definition, you cannot consider them simultaneously here. I mean, you have to vote on one, then vote on the next one. The same thing is true for the floor.

But is there anything to preclude in the way your shop operates in trying to prepare more than one of these conventions at the same time?

Mr. KRECZKO. No, Senator. But it would increase the amount of time before we would have a definitive view on any one if we have to look at several at the same time. Basically, the same people in the administration are looking at each of them.

Senator SARBANES. I see.

Now, who looks at them in the administration?

Mr. KRECZKO. Within the State Department, the Legal Adviser's Office, the Bureau of Human Rights, the Bureau of International Organizations; then, of course, the principals. I assume within the other affected agencies, they are similarly farmed out.

Senator SARBANES. Are you the chairperson of the interagency group that looks at these conventions?

Mr. KRECZKO. For the Rights of the Child Convention, to which we have devoted a substantial amount of time and analysis, the Legal Adviser's Office has taken the role in coordinating interagency review.

Senator SARBANES. How about these other conventions? You know, that one is not even here.

Mr. KRECZKO. That's right, Senator. In that one, the issue under analysis is whether we should be signing it and sending up for ratification. As I say, we have devoted more attention to that issue currently because, until recently, there appeared to be more congressional interest in that convention.

Senator SARBANES. But you have not yet even decided whether to sign that one. Is that correct?

Mr. KRECZKO. We have not. That's correct.

Senator SARBANES. Now these have been signed and submitted——

Mr. KRECZKO. Yes, sir.

Senator SARBANES [continuing]. The other five that I listed.

Mr. KRECZKO. Yes, sir.

Senator SARBANES. Now, with respect to those, is the Legal Adviser's Office the responsible party within the administration for acting on those matters?

Mr. KRECZKO. Certainly for coordinating the review of legal consistency. the actual decision as to which convention we would like to move I think would be made at a more senior level. But the Legal Adviser's Office will have a key role in that. Yes, sir.

Senator SARBANES. Suppose this committee decides they want to move a certain convention. Who is the responsible party in the administration to have that convention ready to move, assuming that the higher levels of the administration have decided they want to move the convention?

Mr. KRECZKO. That would be our office.

Senator SARBANES. That would be your office?

Mr. KRECZKO. Yes.

Senator SARBANES. So, if that decision is made, and then, all of a sudden, someone says we can't move it now because we have not done the preparatory work for moving it, the onus of the delay that would then result would fall on your office. Is that correct?

Mr. KRECZKO. Yes.

Senator SARBANES. Suppose we said we want to have all of these things in a position to move. How long do you think it would take you to prepare them?

Mr. KRECZKO. Senator, again, it is very difficult to estimate. But I look back to the benchmark of the Torture Convention because I was personally involved in that. There we had an existing set of reservations, understandings, and declarations which the chairman was not satisfied with and asked us to reexamine. So, we were operating from a basis where we understood the law and we had a convention that was very narrowly focused and was fairly consistent with U.S. law.

Nevertheless, the interagency review, the consultative process with the committee staff and with the human rights group took a couple of months.

These conventions that you are now talking about are much broader and are more complex.

Senator SARBANES. Has the administration made the decision to move forward with any of these five conventions?

Mr. KRECZKO. I think that until they have a description with respect to a particular convention of the consistency of the convention with domestic law, they won't make the decision in the abstract. But there is no hostility to human rights instruments, as indicated by the work that we have put into the Torture Convention.

Senator SARBANES. Well, we appreciate your work on the Torture Convention and are glad it is moving forward. But I don't think it quite gives you this complete mantle of credibility on the rest of these human rights conventions if you are now telling me, as I understand you to be telling me, that the administration at this moment is not prepared to support any one of these five conventions that is before the Senate. You are still reserving decision as to whether even to support them.

Is that correct?

Mr. KRECZKO. Well, Senator, I think it would not be professional to make a decision or to ask a senior policymaker to make a decision on endorsement of a convention before we have presented him with an analysis of the consistency of the convention with domestic law.

Senator SARBANES. Have you presented that analysis with respect to any one of the five conventions?

Mr. KRECZKO. No, we have not.

Senator SARBANES. Well, now, in the letter that Secretary Baker sent to the chairman, now some 15 months ago—yes, from May 8 to August 8, 15 months ago—we were told that all of these treaties were under review.

The CHAIRMAN. Right.

Mr. KRECZKO. Senator, that is true, and there were a number of other treaties——

Senator SARBANES. I mean, what I am trying to get out of you is this. Is the administration going to say we don't want to move this convention forward, any one of the five?

Mr. KRECZKO. Senator, I cannot make a commitment that we are going to pick another one and move it forward. That would not be responsible on my part when I have not presented to decision-makers a comparison of the convention with domestic legal requirements.

Senator SARBANES. Why not?

Mr. KRECZKO. I say again that we did this, I think with consensus through the human rights community and with the consensus support of this committee, and we have decided in the past year to focus on the Torture Convention. That is where we have been focusing our efforts.

Senator SARBANES. Is it your view that, since a previous administration signed these, you would not have signed them and, therefore, you don't want to move them forward?

Mr. KRECZKO. No. They have not been withdrawn from the Senate.

Senator SARBANES. Are you considering withdrawing them?

Mr. KRECZKO. No.

Senator SARBANES. That is not an option that is being entertained?

Mr. KRECZKO. No, sir.

Senator SARBANES. Well, at least we have, hopefully, disposed of that possibility.

Now, what does "review" mean? When the Secretary said in his letter to the Chairman that these treaties were "under review," what did that mean?

Mr. KRECZKO. That is a very good point, Senator. I think it means different things with respect to different treaties.

In the case of a particular treaty, it may mean that we are actually reviewing the text of the treaty; in the case of another treaty, it may mean that we are reviewing whether to move the treaty forward at all.

Senator SARBANES. Well, you are not reviewing, from your testimony here today, the text of any of these five human rights treaties, is that correct?

Mr. KRECZKO. No, that is not correct.

We have begun the review of the Women's Convention. It is not on the list of the five, but we have done a lot of work on the convention on the Rights of the Child. For the others, you are accurate when you say we have not done a subsequent review of those conventions.

Senator SARBANES. What is it that you see, again, as the major difficulties with the Women's Convention?

When did you begin the review that you have just indicated you are now engaged in of the Women's Convention?

Mr. KRECZKO. We solicited the views of the Justice Department about 3 weeks ago. I can give you the exact date. I don't remember now the exact date.

Senator SARBANES. What is it that you see? Do you see such problems with this convention that you are anticipating the possi-

bility of recommending to this committee that we not move forward with it?

Mr. KRECZKO. We are not far enough along in our review, Senator.

We have identified two primary areas of concern. They are the same two primary areas identified by the Carter administration. One is Federal/State and the second is interpersonal relations, which the convention purports to address. Those are the two primary concerns.

There are then a number of more detailed specific matters, like military service and those issues. But the two primary concerns are Federal/State and private conduct.

Senator SARBANES. Is it your view that those concerns can be addressed with appropriate addenda to the convention?

Mr. KRECZKO. We have not reached a conclusion on that, Senator

Senator SARBANES. Why couldn't they be addressed that way?

Mr. KRECZKO. As a legal matter, it is possible, it would be possible to go through and attach a reservation or understanding to each particular article. I would say that an approach of having too many reservations, understandings, and declarations did not meet with the favor of this committee on the Torture Convention and we were asked to go back and take another crack at it, which we did.

Senator SARBANES. In your statement, you indicate a number of other countries who have acceded to the convention but have made significant reservations. Is that correct?

Mr. KRECZKO. Yes, sir.

I also indicate that there have been objections to those reservations by other countries when the reservations have appeared to be too broad.

Senator SARBANES. How many countries have ratified this convention?

Mr. KRECZKO. I think it is 103.

Senator SARBANES. So, 103 countries.

Is the administration really entertaining the possibility that we would not act on the convention at all?

Mr. KRECZKO. The administration has not formulated a position on the convention, Senator.

Senator SARBANES. Well, what would be your rationale for not acting on it at all? I mean, you have a continuum here. You can say approve the convention as is; take it and go with it.

I take it the administration is obviously very far from that position. You can say approve the convention, but we think the following addenda need to be made to it—reservations, understandings, and so forth. Then you can have a range of those, either a very heavy agenda or a very light agenda of them.

Then the other is we just don't want to approve this convention at all. I would like to know the rationale that entertains as an option in your mind not approving the convention at all in light of the fact that 103 countries have approved it, including many or most of the Western democracies, so that we get away from this notion that somehow it reflects the efforts of a sort of different set of countries with a different body and tradition of law. I mean, this thing has been ratified by Great Britain, Canada, Germany, et cetera, et cetera.

What in your mind is the rationale that keeps as an option not moving on the convention at all?

Mr. KRECZKO. I can think of two rationales, but I would not say that they are in my mind. But I can give you two possible explanations.

One would be if the review indicated that the list of reservations, understandings, and declarations was going to be so great that it suggested a lack of commitment on the issue, rather than a commitment to the issue. A decision might be made not to go forward on that basis.

A second, which is more of a philosophical one, would be whether, even if we can accommodate our particular concerns through a set of reservations, we want to endorse a convention which endorses or appears to endorse the intrusion of a government into these areas. Those would be the two possibilities.

Senator SARBANES. How long would it take you to dispose of those two possibilities, to reach a decision on those two possibilities?

Mr. KRECZKO. Well, as I said, I think the initial step is for us to complete a review of the consistency of the convention with domestic law, so that we know how many reservations or understandings would conceivably be required. Then people can assess it.

Senator SARBANES. I take it from what you told me before it's "a couple of months." Is that correct?

Mr. KRECZKO. Senator, I don't want to be charged with bad faith later on. I said that that is a benchmark that I drew from the Torture Convention, which was easier and where we had a greater base of information.

I am not saying that it can or will be done in 2 months. I am saying that that was my experience in the Torture Convention, which was an easier convention.

Senator SARBANES. Let me ask you a very open-ended question here. What is it that the administration thinks should be done on these five human rights treaties pending here in the committee?

Mr. KRECZKO. We would like to consider which of those conventions should move forward next, and that requires an evaluation of a couple of factors. One is consistency of the particular convention with domestic law. Second is the——

Senator SARBANES. Now, would you have to do that for each one of them in order to decide which one should move next?

Mr. KRECZKO. Well, that goes to the question that you put to me earlier: Do we want to pick a particular convention or do we want to move all of the conventions at once?

Senator SARBANES. Well, no. You can't have it both ways. I mean, you can't tell me that to decide whether a convention should move forward you need to know the extent to which the convention is consistent with domestic law. It seems to me then you need to have analyzed these conventions so you can answer.

You ought to be sitting there and saying to us "We have looked at these five conventions for their consistency with domestic law and here is the conclusion we have reached; and we think Convention A is essentially consistent, B and C have some inconsistencies, and D and E are very inconsistent. So, as we consider which one to

move forward, we think you ought to take that into account in your thinking."

But that has not been done.

Mr. KRECZKO. Well, I would say that I have a personal view as to which of these conventions has the fewest problems in terms of legal consistency.

Senator SARBANES. Well, why don't you tell us that. Which of the five conventions, because maybe we are getting somewhere here? Maybe not, though.

Mr. KRECZKO. Well, I don't think you should exaggerate whether we are getting somewhere because this is my personal view. This is not the result of a review by the administration.

Senator SARBANES. But I perceive you as being a responsible person within this operation, Mr.Kreczko, and we are certainly out to make you one this morning if not so. [General laughter.]

Mr. KRECZKO. I think that the convention on the Elimination of Racial Discrimination probably has the least problems in terms of domestic law; then the Covenant on Civil and Political Rights; then the convention on Women; and then the Economic and Social and Cultural Rights Covenant. That is my own "guesstimate" as to how they would rank.

Senator SARBANES. When you are ranking them, are you finding very large gaps between them or are there relatively small gaps between them?

Mr. KRECZKO. There are some large gaps. I would take as an example the Covenant on Economic, Social and Cultural Rights. That covenant really raises a fundamental question as to whether we endorse the notion of economic rights. We are very comfortable within our constitutional system with the notion of civil and political rights. They are guaranteed by our Constitution.

The notion of economic rights is not as well established in our constitutional or governmental system. So I would say there are some gaps.

Senator SARBANES. So, you would say there, that that one is way down here [indicating]; and then there is a large gap before you get to the next one, moving toward fewer problems? Is that correct?

Mr. KRECZKO. I think you are pressing me beyond where I can go, Senator. I tried to give you my own assessment of how they look.

Senator SARBANES. But the point you made about that one, which obviously is a point that merits consideration, is of a dimension different than the problems associated with any of the other ones. Isn't that correct?

Mr. KRECZKO. That is correct certainly with respect to the Civil and Political Rights Covenant. I think the convention on Women, while it is primarily directed toward antidiscrimination, does go to some affirmative obligations with respect to economic, social, and cultural rights. I think the Women's Convention mixes them.

Senator SARBANES. Is the review done by you, under your direction, the review of these conventions, if, in fact, we move to have a review?

Mr. KRECZKO. Well, it is the Legal Adviser, or Judge Sofaer when he was here.

Senator SARBANES. Do you then become the operative person?

Mr. KRECZKO. Yes, although we hope soon to have a new Legal Adviser.

Senator SARBANES. But even if you have one, you will still be the operative person, assuming the old way of working?

Mr. KRECZKO. He will expect me to do the work. Yes.

Senator SARBANES. OK.

Thank you very much, Mr. Chairman.

Mr. KRECZKO. Senator, before you move on, may I come back to something, because I do think this is a point worth discussing.

Only one factor in deciding, in assessing the conventions, is consistency with law. A second factor, which we think is most important, is in terms of international human rights. There I will not offer a personal ranking. But I will say that there are some human rights groups who believe that the Covenant on Civil and Political Rights is the most fundamental covenant at all.

Then I would say the third element that we have to assess is receptivity in the Senate.

Senator SARBANES. It is difficult to get to those two factors, both of which I think are legitimate, if we have not gotten beyond the first one, though. If we try to get to those, you're going to say "Now, wait a second, we have not done the basic analysis of consistency with domestic law." Wouldn't you say that?

Suppose I said to you "There is tremendous receptivity in the Senate right now to this particular convention and we think we really ought to go with it, we're ready to go with it. Second, it's very important internationally and everyone is now agreed that we ought to go with it." Wouldn't you say at that point "Now, wait a second, we may agree with that but we have not done the basic analysis on its consistency with domestic law."

Wouldn't you say that exercise would need to be done? Obviously it would need to be done, wouldn't it?

Mr. KRECZKO. It would need to be done.

Senator SARBANES. Well, why don't we do it so that we are then in a position to make the judgment on the other two factors?

Mr. KRECZKO. Senator, we could do that. That would be one approach.

We could take the time to analyze all five of them definitively. Alternatively, if there were a consensus that we ought to look first at the Covenant on Civil and Political Rights to examine it, we could do that.

I agree that in any of the situations, ultimately you have to end up assessing all three factors. But if the committee is suggesting that we go back and do a definitive review of all five conventions, that is going to take more time.

Senator SARBANES. Well, I am concerned that you have not done any of this. That is my concern, I guess.

I mean, I understood what happened in the 1980's and that, in effect, there was not an active agenda in this area. As I said earlier, I am prepared to be shown that that is not now the case.

How long have you been in the office?

Mr. KRECZKO. For 15 years.

Senator SARBANES. For 15 years.

Well, what were you doing about all these conventions in the 1980's?

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Mr. KRECZKO. I was working on the Middle East, and I can't say I produced much more there.

Senator SARBANES. How long have you been in the Legal Adviser's office?

Mr. KRECZKO. I meant I worked on Middle East issues in the Legal Adviser's office.

Senator SARBANES. Oh, you didn't work on human rights issues. When did you start working on human rights issues?

Mr. KRECZKO. I have been in a supervisory position with respect to that issue I think for 2 years or a year and a half.

Senator SARBANES. Well, maybe it represents a breaking of the ice jam there.

I think I will leave it at that, Mr. Chairman.

Thank you very much, Mr. Kreczko.

The CHAIRMAN. Thank you very much.

I think this exchange has been very helpful.

I have just one further question for Mr. Kreczko. In the letter that the Secretary sent me, he talked about the treaties currently under review.

Would you tell me just once more how you define "under review"?

Mr. KRECZKO. Senator, if this is an important point, it might be better that I get you an answer to that question in writing.

The CHAIRMAN. OK.

[The information referred to follows:]

Question. With respect to pending treaties, what is the definition of "under review"?

Answer. The Department of State annually advises the Senate of the priority the executive branch accords to treaties currently pending before the Senate for advice and consent to ratification. Treaties are placed in one of six categories, namely: (1) treaties for which there is an urgent need for Senate approval; (2) treaties which should be given very high priority; (3) treaties which the administration believes are generally desirable and should be approved; (4) treaties which the administration believes should not be approved; (5) treaties currently under review; and (6) treaties not yet before the committee which may require action prior to adjournment of the current session of Congress. When a treaty is classified as "under review," it indicates that a new administration has not determined whether to support the treaty or that, in the case of an administration in office, it is reassessing its position, for example, in light of subsequent developments.

The CHAIRMAN. I would leave the record open for any further questions from Members of the committee which they might have to offer. I would appreciate a written answer on that particular point.

Mr. KRECZKO. Mr. Chairman, may I come back to one point with respect to the sentence that has been changed in my written testimony?

The CHAIRMAN. Please.

Mr. KRECZKO. I don't want a misunderstanding on that.

We are agreed that we have begun our review of these conventions and that we will work with the committee in assessing the conventions. But we did not say that we would, and I have not said, that we would urge this committee to act formally on another convention until the Torture Convention is adopted.

The CHAIRMAN. But you are not saying that the Torture Convention is a condition for acting on other conventions, are you?

Mr. KRECZKO. It certainly is not a condition for working with the committee and for beginning our review. We have done that. We have started that process.

But I do not want to leave anyone with the impression that the administration has decided that it will encourage this committee to act on another one, formally, in terms of a markup, until the Torture Convention is adopted.

The CHAIRMAN. I am disappointed at that and would hope that the administration, in its wisdom, would reassess that view. But I understand you are reflecting a view.

I would ask my learned colleague if there is any way that we can sharpen that.

Senator SARBANES. I am not quite clear why? If the committee still had the Torture Convention before it, I could understand that you might say we want you to act on that convention in the committee before you act on any other convention. But the committee has now acted on that convention and it is on the floor of the Senate.

It is not quite clear to me why your posture is that the committee should not now act on another convention.

Now, it seems to me the committee could act on another convention and you could then take the position on the floor that the first convention you want acted upon, which has been reported out by the committees, is the Torture Convention. But it is not quite clear to me why you are backing up the process in this way.

Why are you doing that? Why are you saying that the committee, which has acted on the Torture Convention, should now not act on any other convention until, in fact, the Torture Convention is acted on on the floor of the Senate?

Mr. KRECZKO. We have a certain amount of momentum behind the Torture Convention because of the work of this committee, which we appreciate. We are concerned that there not be an excuse for inaction on the Torture Convention because of a desire to see it in light of other conventions or the position of the administration on other conventions.

If there are flaws found in other conventions, we don't want them to become associated with the Torture Convention. We really would like to see the Torture Convention adopted.

Senator SARBANES. Well, you are backing these things up, I think, unnecessarily. In any event, the point you are now making go to items 2 and 3 of your listing of factors. I am trying to clear the decks of item 1.

Mr. KRECZKO. I understand that, Senator.

Senator SARBANES. I want to clear the deck so that if a judgment is made at a very high level that these are important conventions and that the Senate is receptive to them, we then do not run into the roadblock or the obstacle that Mr. Kreczko says, responsibly as a lawyer, with a responsibility, that I am not prepared to go on this thing because I have not done the basic analysis of its consistency with domestic law and with any sort of reservations or understandings we may have to request in light of any difficulty that we cite.

Then, all of a sudden, you are a roadblock that completely upsets the possibility of moving forward. If there is going to be a road-

block, it ought to be somebody else, for the sake of your conscience and reputation, Mr. Kreczko.

Mr. KRECZKO. And job. Yes.

Senator SARBANES. Yes.

The CHAIRMAN. At least the record should show that this committee, at least those of us who are here today, feel very strongly that there should be no relationship between the two and that we should move ahead on all the human rights conventions as speedily and quickly as possible. I speak, as I say, certainly for those of us who are here today and for the majority of my colleagues.

I thank you for being with us, Mr. Kreczko.

Mr. KRECZKO. Thank you, Mr. Chairman.

The CHAIRMAN. We now turn to our public witnesses: Ms. Harriet Horwitz, President of B'nai B'rith Women, Washington; Ms. Catherine Bocskor, Vice Chair, Section of International Law and Practice, American Bar Association; Ms. Arvonne Fraser, Senior Fellow, Humphrey Institute of Public Affairs and Director, International Women's Rights Action Watch, Minneapolis; Mr. Bruce Fein, attorney and syndicated columnist; and Ms. Ellen Smith, Concerned Women for America.

I welcome you all here.

I would add that your statements will be inserted in the record in full, as if read. I believe you have already been requested to try to limit them to 5 minutes or so, if you possibly can. There will be a light and a bell to help us in that process.

I am very glad you are here and we will start out with Ms. Horwitz.

STATEMENT OF HARRIET J. HORWITZ, PRESIDENT, B'NAI B'RITH WOMEN, WASHINGTON, DC

Ms. HORWITZ. I am Harriet Horwitz, President of B'nai B'rith Women, an international Jewish women's organization.

First, I would like to thank Senator Pell and the distinguished members of the Senate Foreign Relations Committee for this opportunity to present testimony on behalf of the convention to Eliminate All Forms of Discrimination Against Women. We have waited for this opportunity for a long time.

I would like to speak about the grassroots support for the convention, and I do so in the hope that telling about the full force and breadth of that support will encourage movement on the important human rights convention.

B'nai B'rith Women's drive for ratification of this convention began in 1985, when some of our leaders returned from the United Nations Conference in Nairobi marking the end of the Decade for Women. At the end of the Nairobi conference we held a press conference, announcing that we, along with other major Jewish women's organizations, planned to begin a drive for ratification. This convention joins two issues that are of paramount concern to us: first, the advancement of women (and with them the advancement of children and families); and, second, the furthering of human rights.

We realized fully that before the Senate and the administration would be ready to consider the merits and the necessity of the

Women's Convention, we would have to enlist the aid of numerous groups, groups that would have the required patience and tenacity and commitment.

We began by gathering together women's and human rights groups and holding educational forums and producing grassroots informational pieces. Then we reached out to other groups that we believed would have an interest in the convention, groups such as the National Education Association and the American Federation of Teachers, the American Psychological Association, the United States Conference of Mayors, and the League of Women Voters.

Over time, we have held and appeared at countless meetings on the convention, made repeated visits to Capitol Hill and contacted dozens of grassroots organizations who, in turn, have held meetings and forums and produced materials to educate their constituents.

The work of all these groups has yielded some results. We were pleased when Senator Kerry of Massachusetts decided to convene a hearing in his State on December 5, 1988. We were grateful to the Senator for giving supporters of the convention an opportunity to testify on the issues that surround it.

This past November marked the 10th anniversary of the U.S. signing of the convention. It spawned a wave of activities and heightened interest in moving this human rights document forward. The seeds of grassroots support sprang to life in many communities across the country.

As one example, a conference convened by coalition groups in Iowa on the status of women attracted an audience of over 800 persons. Since this past November, we have worked with renewed effort, with concerned partners such as Amnesty International, the American Association of University Women, the American Bar Association, the Spiritual Assembly of Ba'hais, and Hadassah, to name only a few. I will submit a complete list of endorsing organizations with my written testimony.

As a Jewish women's organization, B'nai B'rith Women is no stranger to the struggle for human rights. We worked for passage of the Genocide Convention, for all the decades that that took. We have worked to secure freedom for Soviet Jews, a task that, as you know, has recently yielded gratifying results. From that experience, we know that international vigilance and international instruments of law are powerful tools.

There is no doubt that the Soviet and United States signatures on the Helsinki Plan Final Act helped to leverage free emigration and family unification for Soviet Jews. Therefore, we believe it is especially important to note that endorsement of the Women's Convention is called for in the concluding document of the Vienna meeting of the Commission on Security and Cooperation in Europe.

The United States was a signatory to that document and we strongly believe it should live up to its commitments.

Before concluding, let me say that for 19 years, my husband and I have owned and operated a travel agency in North Miami Beach, FL. Because of my professional life, I have traveled extensively around the world. I have witnessed how women in many countries live. I have seen firsthand the poverty and exploitation of women in Latin American countries. I have heard from women in Kenya about the prevalence of wife beating and the reluctance of authori-

ties to interfere. I have spoken with concerned women in Japan who are increasingly concerned about the disparities between women and men in pay and in access to managerial jobs. In a country where we take for granted the right to travel, it is astonishing to know that in some countries, a woman cannot even hold a passport in her name without permission from her husband or her father.

The Convention on the Elimination of All Forms of Discrimination Against Women sets guidelines in many basic areas of life. It is not a radical document. It merely sets standards that we, as a society, should be proud to endorse—103 countries around the world have done so.

We believe it is time for the United States to do the same.

[The prepared statement of Ms. Horwitz follows:]

PREPARED STATEMENT OF HARRIET J. HORWITZ

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First, I would like to thank Senator Pell and the distinguished members of the Senate Foreign Relations Committee for this opportunity to present testimony on behalf of the Convention to Eliminate All Forms of Discrimination Against Women. We have waited for this opportunity for a long time.

I would like to speak about the grassroots support for the convention, and I do so in the hope that telling about the full force and breadth of that support will encourage movement on this important human rights convention.

B'nai B'rith Women's drive for ratification of this convention began in 1985 when some of our leaders returned from the U.N. Conference in Nairobi marking the end of the Decade for Women. At the end of the Nairobi Conference we held a press conference announcing that we, along with the other major Jewish women's organizations, planned to begin a drive for ratification. This convention joins two issues that are of paramount concern to us—first, the advancement of women (and with them the advancement of children and families) and second, the furthering of human rights.

We realized fully that before the Senate and the Administration would be ready to consider the merits—and the necessity—of the Women's Convention, we would have to enlist the aid of numerous groups, groups that would have the required patience and tenacity and commitment.

We began by gathering together women's and human rights groups and holding educational forums and producing grassroots informational pieces. And then we reached out to other groups that we believed would have an interest in the convention * * * groups such as the National Education Association and the American Federation of Teachers, the American Association of Retired Persons and the American Psychological Association, the United States Conference of Mayors and the vague of Women Voters. Over time, we have held and appeared at countless meetings on the convention, made repeated visits to Capitol Hill and contacted dozens of grassroots organizations, who in turn have held meetings and forums and produced materials to educate their constituents.

The work of all these groups has yielded some results. We were pleased when Senator Kerry of Massachusetts decided to convene a hearing in his state on December 5, 1988. We were grateful to the Senator for giving supporters of the convention in Massachusetts the opportunity to testify on the issues in the convention.

This past November marked the tenth anniversary of the United States signing of the convention. It spawned a wave of activities and heightened interest in moving this human rights document forward. The seeds of grassroots support sprang to life in many communities across the country. As one example, a conference convened by coalition groups in Iowa on the status of women attracted an audience of over 800 persons. Since this past November we have worked with renewed effort, with concerned partners such as Amnesty International, the American Association of University Women, the American Bar Association, the Spiritual Assembly of Ba'hais and Hadassah, to name only several. I will submit a complete list of endorsing organizations with my written testimony.

As a Jewish women's organization, B'nai B'rith Women is no stranger to the struggle for human rights. We worked for passage of the Genocide Convention * * *

for all the decades that that took. And for years we have worked to secure freedom for Soviet Jews, a task that, as you know, has recently yielded gratifying results. From that experience we know that international vigilance and international instruments of law are powerful tools.

There is no doubt that the Soviet and United States signatures on the Helsinki Final Act helped to leverage free emigration and family reunification for Soviet Jews. Therefore we believe it is especially important to note that endorsement of the Women's Convention is called for in the concluding document of the Vienna meeting of the Commission on Security and Cooperation in Europe. The United States was a signatory to that document and we strongly believe it should live up to its commitments.

President Bush said as recently as two weeks ago that the United States serves as a model for the world at a time of special significance. We agree with him. As a leader in the human rights arena, our country has a special obligation to help improve conditions for oppressed women everywhere. The admonitions of this country would be more persuasive, more credible, if it joined the nations around the world that have ratified the women's convention.

Before concluding, let me say that for 19 years my husband and I have owned and operated a travel business in North Miami Beach, Florida. Because of my professional life, I have traveled extensively around the world. I have witnessed how women in many countries live. I have seen first hand the poverty and exploitation of women in Bin American countries. I have beard from women in Kenya about the prevalence of wife beating and the reluctance of authorities to interfere. I have spoken with concerned women in Japan, who are increasingly concerned about the disparities between men and women in pay and in access to managerial jobs. In a country where we take for granted the right to travel, it is astonishing to know that in some countries a woman cannot even hold a passport in her name without permission from her husband or father.

The Convention on the Elimination of All Forms of Discrimination Against Women sets guidelines in many basic areas of life. It is not a radical document. It merely sets standards that we, as a society, should be proud to endorse. 103 countries around the world have done so. We believe it is time for the United States to do the same.

Thank you for providing this opportunity for me to speak.

ORGANIZATIONS THAT HAVE ENDORSED CONVENTION TO ELIMINATE ALL FORMS OF DISCRIMINATION AGAINST WOMEN

American Association of Retired Persons; American Association of University Women; American Bar Association; Americans for Democratic Action; American Federation of Teachers; American Jewish Committee; American Jewish Congress; American Nurses Association; American Psychiatric Association; Amit Women; Amnesty International; Anti-Defamation League of B'nai B'rith; Association for Women in Psychology; Association for Women in Science; Black Women's Agenda; B'nai B'rith Women; B'nai B'rith International; Church Women United; Episcopal Church, USA; Evangelical Lutheran Church; Emunah Women; Grey Panthers; Hadassah; League of Women Voters; Na'amat USA; National Assembly of Religious Women; National Association of Commissions for Women; National Association of Women Judges; National Association of Women Lawyers; National Coalition of 100 Black Women; National Conference of Christian and Jews, Inc.; National Council of Jewish Women; National Education Association; National Federation of Business and Professional Women's Clubs National Federation; of Temple Sisterhoods; National Ladies Auxiliary, Jewish War Veterans; National Jewish Community Relations Advisory Council; National Organization of Women (NOW); National Spiritual Assembly of Bahai of the U.S.A; National Women's Conference Committee; National Women's Political Caucus; National Women's Studies Association; Planned Parenthood Federation of America; Presbyterian Church, USA; Soroptimist International; St. Joan's Alliance; United Presbyterian Church; Unitarian Universalist Service Committee; Unitarian' Universalist Association of Congregations; United Methodist Church; United Nations Association of the United States; United States Conference of Mayors; Women for International Peace and Arbitration; Women's American ORT; Women's Branch, Union of Orthodox Jewish Congregations of America; Women's League for Conservative Judaism; World Federalist Association; Young Women's Christian Association; and Zonta International

The CHAIRMAN. Thank you very much, Ms. Horwitz.
Ms. Bocskor.

STATEMENT OF CATHERINE E. BOCSKOR, VICE CHAIR, SECTION ON INTERNATIONAL LAW AND PRACTICE, AMERICAN BAR ASSOCIATION, WASHINGTON, DC

Ms. BOCSKOR. Mr. Chairman, I am Vice Chair of the American Bar Association's Section of International Law and Practice. I have been requested by L. Stanley Chauvin, Jr., to present the testimony of the ABA today.

The CHAIRMAN. Would you pull the microphone a little closer, please.

Ms. BOCSKOR. yes.

The American Bar Association strongly supports U.S. ratification of this convention.

In 1984, the ABA's House of Delegates adopted a resolution supporting U.S. ratification.

As you know, the convention has been pending before the Senate for 10 years. In President Carter's original transmittal letter to the Senate, he pointed out that there were no constitutional or other legal obstacles to U.S. ratification of the Women's Convention.

The ABA has undertaken extensive legal studies to determine whether the terms of the convention are compatible with U.S. law. In each instance, that is, in the case of three different studies, our conclusion was that U.S. law is compatible with the convention. I will go into a few more details.

The Women's Convention, as an international human rights convention, does allow for a degree of progressive implementation by the ratifying countries. This means that it is not necessary for a country's laws to be in full, complete compliance with the terms of the convention at the time of ratification. The international committee that oversees implementation of this convention in the United Nations does allow for a country to show progress in fulfilling the terms of the convention. And, of course, a ratifying country can always submit a reservation with respect to its laws.

The most recent ABA study of the terms of the convention was undertaken in association with the American Society of International Law, the Federal Bar Association, and the Women's Bar Association of Washington, DC. We examined not only U.S. law and practices that relate to the terms of the convention, but we went and looked at the negotiating history of the convention. We looked at the reports of the U.N. committee that oversees progress of this convention. And we interviewed members of that U.N. committee.

I think it is safe to say that we did a very thorough legal study and that study is ongoing, Mr. Chairman.

I am going to turn to several specific instances which have been raised both by this current administration and by the Carter administration in its original transmittal letter to try to show the committee how, while there may be some terms of U.S. law that do not seem, on their face, to comport with the terms of the convention, to show you how we believe the United States can ratify the convention nonetheless at this very moment.

My written statement includes some of the articles where the United States is in full compliance—I won't go through those now for the sake of time—such as in the case of voting rights, rights to nationality for women and their children, and so forth.

I will go right to the nitty-gritty. For example, questions have been raised by the administration about the terms of the convention involving employment rights. This is article 11 of the convention.

Article 11 of the convention calls for women's rights to equal remuneration and equal treatment with respect to work of equal value. That term, "equal value," is somewhat broader than existing U.S. law. The United States Equal Pay Act of 1963 calls for equal pay, but it calls for equal pay for equal work. In other words, the U.S. law, equal pay for equal work, is somewhat narrower than the broader terms of the convention.

We, of the legal groups who have undertaken these studies, do not believe that this is such a broad disparity in terms of U.S. law, vis-a-vis the terms of the convention, that the convention could not be ratified. The reasons are the following.

First of all, the Federal Civil Service System itself is based on the concept of job classifications that provide for equal pay for work of equal value.

Second, in the public sector, on the State, county, and local areas, there have been over 1,700 actions taken—either wage studies or actual wage adjustments—that have adjusted wages on the basis of work of equal value.

Third, in 1981, the Supreme Court has held—this is in the private arena—that job discrimination is illegal whether the jobs held are identical or are different, as the treaty calls for.

Continuing with article 11, employment, article 11 does talk about that there should be no discrimination on the basis of marital status. Federal law does not cover marital status currently, except for Federal employees. However, many States have laws that cover discrimination on marital status.

Article 12 of the convention covers health care. Let me emphasize that it does not cover abortion at all. The negotiating history does not mention abortion.

Finally, let me just say with respect to the Federal/State issues, the American Bar Association resolution has recommended that the United States enter into a reservation with respect to certain provisions of the treaty where State action would be appropriate.

Thank you.

[The prepared statement of Ms. Bocskor follows:]

PREPARED STATEMENT OF CATHERINE BOCSKOR

Mr. Chairman and Members of the Committee, my name is Catherine Bocskor. I am Vice-Chair of the Section of International Law and Practice of the American Bar Association. I appear before you at the request of L. Stanley Chauvin, Jr., President of the American Bar Association, to express the Association's support for the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

By way of introduction, I am an international lawyer and litigator in Washington, D.C. and practice with the law firm Powell, Goldstein, Freer & Murphy.

The American Bar Association strongly supports United States ratification of the Convention on the Elimination of All Forms of Discrimination Against Women. In 1984, the ABA House of Delegates, our highest policymaking body, adopted a resolution urging the Senate to give its advice and consent to ratification of the Women's Convention.

The United States was a signatory to the Convention at the time it was adopted and participated In its drafting. The Women's Convention represents an attempt, on

an international basis, to ensure the recognition of the principle of equality of men and women in law and in fact.

The Convention has been pending In the Senate for nearly 10 years, having been submitted by President Carter with a request for advice and consent to ratification In November of 1980. In his letter of transmittal to the Senate, President Carter stated that there were no constitutional or other legal obstacles to U.S. ratification of the Women's Convention.

The American Bar Association has undertaken legal studies to determine whether the terms of the Convention are in conformity with U.S. law. In each instance the conclusion was that U.S. law is basically compatible with the Convention.

The Women's Convention, as an international human rights convention, allows for a degree of progressive Implementation of the terms of the Convention. Thus it is not necessary for a country's laws to be In complete conformity with the Convention upon ratification as long as the ratifying country can demonstrate progress In meeting the goals of the Convention in periodic reports to the Committee on the Elimination of Discrimination Against Women (CEDAW).

The most recent ABA study of the Convention, undertaken in conjunction with the American Society of International Law, the Federal Bar Association and the Women's Bar Association of the District of Columbia, examined U.S. law and practice as it relates to the provisions of the Convention, the negotiating history of the Convention and CEDAW reports on the implementation of the Convention.

Women's Convention discusses several specific areas in which ratifying countries agree to take appropriate measures to eliminate discrimination against women.

Articles 7 and 8 cover political rights for women including the right to vote and to hold public office and to represent their Governments at the International level. The United States is clearly in compliance with these terms of the Convention.

Article 9 concerns equal rights for women to acquire, change or retain their own nationality and the nationality of their children. As far back as 1922, Congress provided that a woman's right to become a naturalized citizen shall not be denied or abridged because of her sex or marital status and later gave foreign children of American mothers the same right to naturalization as foreign-born children of American fathers.

Artlcle 10 calls for equal rights in education including access to the same curricula, examinations, and quality of teaching staff and facilities. The article refers to equal opportunities to benefit from scholarships and study grants, for access to continuing education programs and to participate in sports and physical education. Title IX of the Civil Rights Act provides that an educational institution may not discriminate on the basis of gender if it is to continue to receive federal aid. Title IX provisions also apply to nondiscrimination in sports and physical education. Title VI of the Civil Rights Act requires nondiscrimination on the basis of gender in the administration of any federal program which would include federal programs providing for or facilitating financial assistance for education.

The elimination of discrimination against women in the field of employment is the subject of Article 11. While this article's provision for the right to equal remuneration and equal treatment in respect of work of equal value is somewhat broader than current federal law, the U.S. has made significant progress in ensuring women workers equal pay for work of equal value in recent years. The Federal Equal Pay Act requires equal pay for equal work, a somewhat narrower concept than work of equal value. The Federal Civil Service system, however, is based on a system of job classifications that provides for equal pay for work of equal value. in the public sector on the state, county and municipal level, over 1700 political entities have made wage rate adjustments to correct disparities between male and female workers in job categories where their work has determined to be of equal value. In the private sector, the Supreme Court held in 1981 that wage discrimination is illegal whether the jobs held are identical or different.

Article 11 also calls for appropriate measures to prohibit dismissal from employment on the ground of pregnancy or of maternity leave or on the basis of marital status. The Federal Pregnancy Discrimination Act and the guidelines thereunder prohibit discrimination on the basis of pregnancy or maternity leave. Regulations relating Federal employment prohibit discrimination based on marital status and many States have laws prohibiting such discrimination.

Elimnation of discrimination against women in the field of health care is covered by Article 12 which article also calls for equal access to health care services Including those related to family planning.

Title VI of the Civil Rights Act mandates nondiscrimination In federally- sponsored programs which would include Medicare and Medicaid programs, the two largest federal and state-sponsored programs for the delivery of health care services.

The family planning provision of Article 12 does not require access to abortion. Neither the Convention itself nor its negotiating history specifically address the question of abortion.

The Women's Convention also requires equality with respect to the right to contract and to administer property and equal rights with respect to marriage and the family. Women's equal rights to contract and to administer property have been upheld by the courts under the equal protection provision of the Constitution. Rights with respect to the marriage and family, however, have traditionally been the subject of state law. We believe that the laws of the various states are in basic conformity with the Convention with respect to the marriage and family issues.

The Resolution adopted by the Association recommends that the United States clarify its role in the application of the provisions of Article 6 (exploitation of prostitution), 10 (education), 13 (right to family benefits), 15 (contract' and property rights), and 16 (domestic relations) consistently with the division of authority between the local, state and federal governments in the United States. The Resolution also recommends that the federal government bring to the attention of the states the need to take appropriate measures for the fulfillment of the Convention.

Even though U.S. law is basically in conformity with the Convention, this is not the case in some other countries. In these countries women do not have the basic human, political and economic rights which we take for granted. U. 5. ratification of the Women's Convention would permit the U.S. to assert its leadership role in the world with respect to human rights.

The American Bar Association, therefore, urges the Senate to give its advice and consent to ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

The CHAIRMAN. Thank you very much.

Senator SARBANES. Mr. Chairman, I have a question.

Has the American Bar Association analyzed the convention and developed a full set of recommendations as to reservations or understandings with respect to it?

Ms. BOCSKOR. Senator Sarbanes, the answer to the first part of your question is "Yes." We have analyzed the convention.

As for the second part of your question, we are still analyzing a set of possible recommendations and/or declarations that we would recommend. However, in our 1984 ABA resolution, we do have some recommended reservations. We want the opportunity to take another look at this now and submit something to you.

Senator SARBANES. Thank you.

The CHAIRMAN. Ms. Fraser.

STATEMENT OF ARVONNE S. FRASER, SENIOR FELLOW, HUMPHREY INSTITUTE OF PUBLIC AFFAIRS, UNIVERSITY OF MINNESOTA; AND DIRECTOR, INTERNATIONAL WOMEN'S RIGHTS ACTION WATCH, MINNEAPOLIS, MN

Ms. FRASER. Thank you very much, Mr. Chairman. I appreciate and congratulate the committee on scheduling this hearing and for the opportunity to testify.

I understand the interest of time and I will submit my full statement and attachment which talks about the U.S. interest in the convention article by article. I want to underscore that the work of the ABA and B'nai B'rith has been very useful to us, the International Women's Rights Action Watch, or IWRAW, which I direct, which was originated or founded at the Nairobi Conference.

I want to say that I am proud that this Nation lives up to virtually every principle in this convention. I will note that article 2 of the convention says that states parties condemn discrimination against women in all its forms and agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimina-

tion. That is not in my written testimony. But in light of what the ABA just said, I think I should underline that we do not have to be in conformance in order to ratify if we agree to pursue the elimination of discrimination.

It is very important internationally what the United States does, and there are a lot of eyes on us and on this hearing.

I am also proud that it has been our Government representatives and our international women's organizations—international women's organizations essentially created by American women—who really had a very, very strong influence in drafting this historic document.

We have been a member of the U.N. Commission on the Status of Women ever since it was founded. It was our organizations and Latin American women's organizations that helped that commission to be founded. Essentially, we drafted this document.

Then, in the final draft, Republican and Democratic women worked together to have it adopted. Currently, church women are putting together kits on the convention and I am sure that the Senate and others will be hearing from these church women. This is not, I want to underline, a radical document.

It was an American women, a young farmer's daughter like myself, from the heartland, who wrote the article or drafted the article on rural women and submitted it to the commission.

This brings me to why I am apologetic worldwide. I have to explain every time I go overseas why, when we conform, when we have been a leader on women's rights, when we were very influential in writing this, why we have not ratified.

I talk about our Federal/State problem. I say we consider treaties very carefully before we sign them. But, frankly, it is getting a little embarrassing because every other country thinks we are the leader on women's rights.

I will be proud to say when I go to the Soviet Union next month for an international meeting on the convention that these hearings were held, and I hope by then we have a little more news to report.

I also want just to make a couple of points about article 9, on nationality.

We are currently working on a case in Botswana. Botswana does not allow the mother's nationality to be transferred to the children, only the father's. This Botswana woman, a 31-year-old lawyer, practicing in Botswana, is married to a U.S. citizen resident in Botswana. Essentially their children are aliens in their country of residence because those children are, by Botswana terms, U.S. citizens. They have to register periodically, et cetera.

Article 10, on equal rights in education, looks straight as if it were out of a U.S. education policy handbook. You can see our fine hand there.

But the best argument for the convention, I think, is our respect for the rule of law. We are admired worldwide for this. The sad fact is that in most countries, women's political and civil rights are limited by tradition and custom reflected either in law or in its application. It is our Married Women's Property Acts, begun in the 1840's, ours and the British, that are the basis of article 16 on marriage and family law.

In our IWRAW network—and it is not only women, but male lawyers and activists as well—are people who are challenging customs which discriminate against women and often their children.

My written testimony talks about Pakistan and the Hudood ordinances, which allow a woman who has been raped to be accused of adultery and imprisoned if she cannot provide four male witnesses to the rape. Thousands of women currently are in Pakistani jails as a result, and Prime Minister Bhutto does not yet have the two-thirds majority in parliament required to overturn these laws. There is an excellent group of women, Women Living Under Muslim Laws, who are working on this.

Thank you very much. Let us no longer apologize. Let us just ratify.

I will be glad to answer your questions.

[The prepared statement of Ms. Fraser follows:]

PREPARED STATEMENT OF ARVONNE S. FRASER

Chairman and Members of the Committee: I want to thank and congratulate the Committee for scheduling this hearing on notification of this treaty and for the opportunity to testily. I appear as a proud, but somewhat apologetic, U.S. citizen and as director of a global network of scholars and activists who have conducted a public education campaign about the treaty and monitor compliance with it. Our network is called the International Women's Knights Action Watch or (IWRAW).

I am proud because this nation lives up to virtually every principle in this Convention. I am also proud that this nation, through our government representatives and through internat[illegible]al women's organizations, many of which American women helped create, had a strong influence in the drafting of this historic document. We, as a nation, have been a member of the U.N. Commission on the Status of Women ever since it was founded. Our representatives on this commission worked long and carefully on the international conventions which preceded and are folded into this treaty. The Convention on the Political Knights of Women, the Convention on the Nationality of Married Women, and on the education, employment, and health issues which are represented by articles in this Convention.

Many of the international women's organizations which lobbied hard for the drafting and adoption of this Convention were either founded in the United States or had active American women among their founders. Two years ago the International Council of Women, which has affiliates in countries all over the world, held its centennial celebration in this city, the city in which that organization was founded in 1898. The women who founded that organization, Elizabeth Cady Stanton and Susan B. Anthony, are among the few women represented by statues in this Capitol.

As a member of the U.S. delegation to the Commission on the Status of Women during some of the drafting of this Convention, I know how hard our U.S. delegate, Koryne Horbal, and her State Department backup person worked in the final drafting of this Convention. Democratic and Republican women, church women, women active in all the traditional women's organizations of this country and around the world, worked together on the early and the U.S. collaborated—played a leading role—in negotiating a draft that would be acceptable to the full Commission. And it is the church women today in the U.S. who are working most actively on the Convention and its ratification. Some are here today testifying. The Baptist and Presbyterian women working with the World Council of Churches Ecumenical Decade Committee are putting together and distributing kits of information on this Convention for their members around the country. You will be hearing from many of them, I am sure. Another active woman in California, Billie Heller, has organized a national committee on ratification.

And it was an American woman, working for an international organization, who wrote the first draft of Article 14 of this Convention which recognizes the particular problems of rural women, the special roles they play in economic survival of families, their unpaid work and their right to training and education. When the Convention was being drafted this young woman from the heart of this country—or Nebraska—realized that although rural women were then a majority of the world's female population they were not specially identified or covered in the document. She, with the help of a lawyer in her organization, worked on draft language and presented it to members of the drafting committee. It is one of the longest and best articles in

the Convention and is just another reason this nation should be proud of the hand it had in drafting this document.

This Convention is a very considered document. It is the product of some years of work by the U.N. Commission on the Status of Women and the prestigious international women's organizations mentioned earlier. It is built on a long tradition of study and action that is characteristic of the traditional women's organizations. Some of its origins can easily be traced back to the work of state legislatures in this country when they passed married women's property acts beginning in the 1840's. Although this Convention builds on the Universal Declaration of Human Rights, one can easily argue that it was the work of women's organizations around the world and the drafters of our own Constitution that provided the foundation on which the Universal Declaration of Human Rights was built.

Can the United States do less than ratify a document that confirms all we believe in and have worked so hard to achieve in this country? Is not the integrity of the individual—be that individual male or female—the very basis of our beliefs? Do we not believe that all people are Dual before the law? That is exactly what this document sets forth in its sixteen substantive articles.

This brings me to why I am somewhat apologetic. Because of our long tradition of democracy and economic power, it matters in this world what the U.S. says and thinks and frankly, I am tired of being apologetic, tired of trying to defend this country when I am asked publicly, at international meetings, why, when the United States has such a good—albeit not perfect—record on women's rights, have we not yet ratified this Convention? As director of the International Women's Rights Action Watch, I am frequently asked this question. I can talk about our federal-state problem; I can say we have a deep respect for law and consider very carefully before we sign international treaties. I can say that the U.S. was one of the first to sign the Convention in 1980 but these remarks are not very convincing when much of the world is moving toward democracy and we are holding back on a Convention with which we are in conformance in every aspect.

I will be proud to say next month when I represent IWRAW at an international meeting on the Convention in the Soviet Union, that this country has held these hearings. I hope, by then, there is more news to report.

In this period of history when nations all over the world are moving toward democracy, ratification of this treaty by the United States would be one more signal—but a very important signal to. both women and men the world over—that the U.S. is a leader in guaranteeing the integrity of individuals and in promoting equal opportunity. Many of us—and certainly I am one—would not be in this room today if this had not been a country which already carries out most of the principles articulated in this Convention. We believe, as a country, that every individual has the same rights and responsibilities as every other individual. That, essentially, is all this treaty says. It says women and girls and families matter—that women are—or should be—citizens in their own right.

It is important to point out that this Convention does take children and families into account. Articles 4,5 and 16 ensure that family responsibilities are common responsibilities of men and women. The Convention recognizes that motherhood and fatherhood are social functions but it also recognize that individuals are cities as well as parents and children and all cities ought to be equal.

We, as a nation, should be proud to stand before the world and say that is what we believe and that is what our legal system requires. Ratifying this Convention gives us one more chance to point out that we are a democratic nation, a nation in which a farmers' daughter, such as myself, may be educated side by side with her brothers, a nation where women may be employed on the same conditions as men, a nation where the unpaid work of women in raising families is valued, and a nation in which women have equal rights before the law and are considered equal cities in almost all respects.

We should be proud to take our place among the over a hundred other nations that have ratified this treaty. As noted earlier, we were among the first to sign this Convention in 1980; let us hurry and be the 104th or 105th nation to ratify—to put our signature again to a document that holds out to others the same promise that we, as a nation, hold out to our citizens. In all seriousness, I will submit, that this will be a real contribution to our foreign policy. Women are, as we all know, over half the population of this world and although the major media give that half of the world little attention, the mail and phone calls to our office are evidence that women are on the move all over the world and U.S. ratification will be a strong signal that this country does pay attention to the female half of its citizenry and to the women of the world.

As a U.S. citizen, I am pleased that our State Department issues an annual compendium of reports on human rights. The International cue for Human Rights has analyzed the U.S. State Department's 1990 Country Reports on Human Rights and issued an excellent publication, Human Rights Abuses Against Women: a Worldwide Survey based on the State Department Report. If we were to ratify this Convention, we would have an opportunity to report on the situation within the United States.

Under the terms of the Convention, ratifying countries agree to report on progress in implementation of the Convention to the Committee on the Elimination of Discrimination Against Women (CEDAW), a 23-member expert committee. Our report could be one of the best. Judge Elizabeth Evatt, a leading jurist in Australia, currently heads that committee, which is made up of distinguished women professionals, many of them lawyers, who are working diligently on encouraging other countries, who do not have the record the U.S. has, to come into conformance with the principles of this treaty.

Our network, the International Women's Rights Action Watch, is supportive of the efforts of that committee and has thousands of members around the world working on implementation at the national level. I would offer only a couple of illustrations of why implementation of this Convention is useful and needed worldwide even for U.S. citizens.

Article 9 of this Convention on nationality is a crucial article—one with which the U.S. will have no problem. Article 9 gives women equal rights in conferring their own nationality on their children. Right now, in our IWRAW office, we are working on a case of a Botswana mother, a lawyer by trade, who is married to a U.S. citizen resident in Botswana. That country will not allow children to take the nationality of their mother. In their country of residence, her children are considered essentially as aliens. They are U.S. cities living in Botswana with a Botswana mother. They have few rights in their country of residence because they are considered U.S. citizens.

Article 10 on equal rights in education looks as if it were straight out of a U.S. education policy handbook. Even though I realize that much of our education policy is state policy—and I recognize our unique problems in federal-state relationships when it comes to treaties—federal legislation over the last 20 years has put us in conformance with that article. And, I submit, it is in our interests, in a world in which every nation is increasingly economically interdependent and the workforce increasingly migratory, it is in our interests to have more people educated. Study after study also shows that education is one of the best indicators of both population growth and political stability. The less educated mothers tend to have more children and the countries with universal education tend to be the most stable.

The best argument for this Convention is our respect for the rule of law. In its sixteen substantive articles the Convention deals with the political rights of women, including the right to vote and hold public office, with nationality questions, and with equality before the law. Beginning with a definition of discrimination and policy measures to eliminate discrimination, including affirmative actions, it also includes articles on economic and social benefits, employment, education, health, and marriage and family law. Put very succinctly, the Convention aims to provide full citizenship for women.

The sad fact is that in most countries of the world women's political and civil rights are limited by tradition and custom reflected either in law or in the application of law. The rule of law too often works differently for women than for men. Discrimination is tolerated or sanctioned in subtle or egregious ways. The most dramatic examples of discrimination are found in countries in which women are either sold into marriage or confined by their families with the sanction of the state in preparation for marriage and during it. The concept of human rights and the rule of law go hand in hand.

In our network we have many lawyers—male and female alike—such as our Botswana colleague, who are working on challenging customs which discriminate against women and often, their children. In Pakistan, women's and human rights groups are challenging the Hudood ordinances which allow a woman who has been raped to be accused of adultery and imprisoned if she cannot provide four male witnesses to the rape. Thousands of women are currently in Pakistani jails as a result of this situation. Prime Minister Bhutto does not have the two-thirds majority in parliament required to overturn these laws. International public opinion is a strong force in moving parliaments in many countries of the world. The United States is a strong force in creating world opinion.

Many other instances of abrogations of women's personal integrity could be cited from the cases we get our office, and from cases human rights organizations all over

the world know about, but time is short and there are other witnesses here. I will be glad to provide members of the committee with both instances of violations of women's human rights and examples of organizations that are working valiantly and against strong odds to bring their countries into conformance with this Convention.

We can help the world's women and the world's efforts to move toward democracy by ratifying this Convention. The fact that we were among the first to sign this Convention and that U.S. delegates to the Commission had worked long and hard to develop the document is no longer enough. These facts are now becoming embarrassing. We can no longer hold back; it is now in our national interest to ratify. The United States has been among the leaders in the world in obtaining rights for women on many fronts, from married women's property acts to suffrage, and from universal coeducation to affirmative action in employment. We need not fear the quadrennial reporting and review process required under the provisions of the Convention. Rather we should look at that process as an opportunity to show that the U.S. is a leader among nations in women's human rights. We should be proud of our record and tell the world so.

I would hope the Committee will move quickly to do just that by supporting ratification of this treaty.

Because time is short, I would like to submit for the record an analysis of the U.S. interest in the Convention we did recently on the tenth anniversary of this Convention.

Thank you.

STATEMENT OF INTERNATIONAL WOMEN'S RIGHTS ACTION WATCH

This is the tenth anniversary of a historic human rights document, the Convention on the Elimination of All Forms of Discrimination Against Women. The United States has always been an active member of the U.N. Commission on the status of women and, as such, participated actively in the drafting of this convention. On December 19, 1979, the convention was adopted by the U.N. General Assembly. It came into force as an international treaty on December 3, 1981, after the twentieth member nation had ratified it. Now ratified by 101 countries, this Women's Convention builds on the Universal Declaration of Human Rights and the International Convenants on Civil and Political and on Economic, Social and Cultural Rights. It puts a female face in the human rights picture.

The historic signing ceremony at the 1980 Mid-Decade World Conference on Women was the culmination of several decades of work by the U.N. Commission on the Status of Women, experts from international nongovernmental women's organizations, and collaboration with a number of the U.N. specialized agencies. The fact that we were among the first to sign this convention and that U.S. delegates to the Commission had worked long and hard to develop the document is no longer enough. It is now in our national interest to ratify. The United States has been among the leaders in the world in obtaining rights for women on many fronts, from married women's property acts to suffrage, and from universal coeducation to affirmative action in employment. We need not fear the quadrennial reporting and review process required under the provisions of the convention. Rather we should look at that process as an opportunity to show that the U.S. is a leader among nations in women's human rights.

The language in the Women's Convention will sound familiar to U.S. citizens with the exception perhaps, of Article 14 on rural women and the clause in Article 5(b) which calls for "a proper understanding of maternity as a social function." We have been pioneers in affirmative action and other countries are now asking us for materials and advice on how affirmative action is defined and implemented. Some may argue that this convention is the equal rights amendment spelled out. Certainly it builds on the equal rights of men and women provision in the U.N. Charter and despite its negative title—against discrimination—it is a very positive document.

In its sixteen substantive articles, this convention spells out the concept of equality between men and women and how to achieve it. To those knowledgeable about other human rights treaties, much of the language will also be familiar, but some will be now. Building on the prohibitions against distinctions as to race, sex, language, or religion found in the U.N. Charter and other human rights instruments, the women's convention is formal recognition that law, culture, and custom have made women second class citizens in every country. While this convention recognizes the family as a foundation of society, it puts new bricks into that foundation, thus, hopefully, stabilizing it. It insists on considering women equal citizens before

the law and in public and private arenas, regardless of their martial status, and deals with the de facto as well as the de jure situation of women.

In short, this women's convention adds the female half of humanity to the total human rights picture, rounding out or including what had previously been only suggested or even been contradictory. Although the Universal Declaration of Human Rights very frequently employs the terms "everyone" and "all," education (with the same curricula, examinations and standards for teaching and equipment and scholarships.) It allows for continuing or life-long education, elimination of stereotyping, equal participation in sports and physical education. U.S. citizens will recognize in these education articles the same concepts as those in Title IX of the Education Amendments of 1972 and in the Women's Educational Equity Act.

Article 11 on employment grants free choice of profession, employment and training, equal pay and benefits, equality in social security, and in occupational health and safety protection. It also recognizes what U.S. Supreme Court Justice Thurgood Marshall, writing on the California case on maternity leave, called "women's biological burden." This article prohibits dismissal from employment on the basis of pregnancy or martial status, provides for maternity leave, encourages the provision of social services, including child care, and recommends special protection against harmful work during pregnancy. Although U.S. women have one of the highest paid employment rates in the world, they are among the last on the list in terms of benefits which take into account this biological burden. European and even developing countries have been much more cognizant of the societal responsibility for the costs of bearing and rearing the future workforce. This article may create controversy and impede ratification but public debate on these issues is already underway.

Articles 12 and 13 restate the case for health care and family planning and for economic and social benefits, building on the articles on education and employment. Article 14 puts all of the preceding articles in the context of the situation of rural women, recognizing their particular problems, "and the significant roles which women play in the economic survival of their families," and the value of their unpaid work.

The final substantive articles—15 and 16—deal with questions of women's second class status before the law and in practice, especially if they are married. Historically, almost every legal system in the world has considered the husband and father the legal representative of the family. Custom and tradition have reinforced this subordination. Women were—and still in many countries—little more than property. Married women had the legal status of minors and girls could be bought and sold into marriage by their families.

Although Article 15 of the Universal Declaration of Human Rights guaranteed men and women of full age (1) the right to marry and found a family and (2) the free and full consent of the partners, item (3) of that article stated that the "family is the natural and fundamental group unit of society an is entitled to protection by society and the State." The de facto contradictions between the three clauses in this article of the Universal Declaration and the term "the family" were the subject of years of consideration by the Commission on the Status of Women. This discussion resulted in the promulgation and acceptance of the Convention on the Consent of Marriage, minimum age for marriage, and registration of marriages, adopted by the General Assembly in 1962 and coming into force in 1964. In the world plan of action adopted at the 1975 Mexico city the international women's year conference the argument was consistently made that woman could not be equal unless men shared more responsibility for children and families. This statement continued to be reiterated in all the succeeding documents of the U.N. Decade for Women.

Article 15 of the convention accords women "a legal capacity identical to that of men and the same opportunities to exercise that capacity * * * and shall treat them equally in all stages of procedure in courts and tribunals."Under this article women may contract, administer property, appear in court, have freedom of movement, and choice of residence and domicile. This is perhaps the most important article of the convention and the one that demands a revision in thinking about human rights. To deny women fuil legal capacity goes to the heart of the rule of law and human rights concepts. Legal capacity is the recognition of personhood: that one is a human being with a full claim to human dignity.

Article 16 deals with "discrimination against women in all matters relating to marriage and family relations" folding in the elements of the 1962 Marriage Convention mentioned above. It provides for the "same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration." It also includes the "same rights and responsibilities as parents." It provides essential-

ly that family decisionmaking be shared and that women's contributions to the well being of families to full acknowledged.

A number of ratifying countries have reserved on this article on substantive grounds, attesting to the fundamental nature of the convention's challenge to the contradictions posed in the Universal Declaration. Many of the countries that have reserved this article are being challenged by organizations in their own countries and by international NGO's monitoring the convention. The U.S. may reserve this article on technical grounds related to our federal system although many of our state family law systems already are close to meeting the standards set in this article.

In short, this convention is, as President Carter said in his November 1980 transmittal letter to the Senate, "a significant new element in the development of the international law of human rights." It recognizes that women are not just dependent wives and mothers but equal and independent citizens with rights transcending their biological burden.

The importance of this convention, therefore, is that it introduces a new element which is both politically and intellectually significant here at home and worldwide. It changes the traditional concept of human rights based on the customary expectation that men are primarily involved in the public sphere and women confined to the private sphere to the true meaning of human rights in which the individual's integrity—regardless of sex, race, national origin, or religion—is respected. Though women have been strong supporters of human rights organizations, most of these organizations have concentrated on men and governments and have been concerned with women almost exclusively as the mothers, wives, grandmothers and daughters of those on whom human rights violations have been inflicted. It is precisely this view of women, as relatives of men, that the convention seeks to overturn. Adding to the women's convention as an element in the human rights picture will not only enrich the debate over the concepts of equality and discrimination, but it will also add an important, perhaps vital, constituency to the ratification effort in behalf of all human rights instruments.

Certainly there will be those, even among human rights specialists, who will continue to advocate prioritizing human rights, but prioritizing itself, it may be argued, is an abrogation of the concept of the integrity of the individual and the spirit of the Universal Declaration.

There will also be those who, during a ratification effort, will concentrate almost exclusively on proposed reservations to the treaties and forget the essence—the strength and vitality—and the broader implications of these treaties. Also, some female activists may argue that the Women's Convention is not perfect because it does not include language covering the problem of violence against women—a growing concern among women worldwide. However, CEDAW rectified this omission during its 1989 session by recommending that all ratifying countries not only report on what legislation they had which dealt with violence against women but what social services they provided to the victims of such violence.

It is time to recognize that one cannot honestly be for human rights without paying attention to women's rights. Discrimination against any group is a political act. Toleration of that discriminated by any government is also a political act. Even for those who limit the concept of human rights to the political and civil, the argument that discrimination against women is tolerable is a false argument. It does not stand up under scrutiny.

The last formal analysis of the women's convention by a U.S. administration concluded that U.S. ratification of this convention "would make clear at home and abroad the commitment of the United States to eliminate discrimination against women." In the 1980 letter of transmittal it was noted that "certain provisions of the convention raise questions of conformity to current United States law. Nevertheless, the Departments of State and Justice * * * concur in the judgment that, with the adoption of certain qualifications and, possibly, appropriate implementing legislation, there are no constitutional or other legal obstacles to United States ratification." The Department of State's October 23, 1980, letter of submittal to the President, accompanied by a memorandum of law, enumerates the many ways in which U.S. law conforms to the convention, and notes that the appropriate reservations stating the "limits of federal jurisdiction" in accordance with the division of responsibility between local, state and national governments would be in order on a number of articles. On others a statement of understanding might suffice.

It should be noted that in at least one case cited in that memorandum as an area of potential concern—that of membership in private clubs—the question is now moot. The U.S. has come into conformance. Women can no longer be excluded from private clubs which are essentially open to the public. In numerous other cases

where the United States may not be in full conformance, activist groups are tackling the problems or concerns enumerated: equity in social security, in family education, in politics, in employment, in the value of unpaid work, and in marriage and family law.

To my mind, the reservations suggested both by the administration and by the American Bar Association 1984 recommendation for ratification are either understandable (given our federal-state system) or tolerable. The United States is not perfect but we should be able to stand the scrutiny of world public opinion when it comes to policies and practices concerned with women's human rights. We have little fear of adverse international public opinion. Rather, we should be more fearful of the consequences of resisting ratification. In fact we should welcome the opportunity to appear before the monitoring committees.

Even if we cannot ratify this convention soon, we can and should live up to our obligation incurred when we sighed the convention. We agreed to its principles and obligated ourselves to do nothing to contravene those principles. This argues that we recognized the validity of the convention and should now, in all our human rights dealings, both in government and through nongovernmental organizations, take this convention into account. To do less is to contravene the very concept of human rights.

The CHAIRMAN. Thank you very much, indeed.

We now turn to Mr. Fein.

STATEMENT OF BRUCE FEIN, ATTORNEY AND SYNDICATED COLUMNIST, WASHINGTON, DC

Mr. FEIN. Thank you, Mr. Chairman and members of the committee.

Articles 1 and 2 are the convention's virtual artillery weapons against what I conceive to be a host of provisions in the U.S. Constitution and Federal and State laws. The former, article 1, defines illicit discrimination to embrace any gender-based distinction by either government, organizations, or individuals that adversely impacts women in any field of endeavor, including religion.

The latter, article 2, obligates a party to the convention promptly to alter its constitution and laws to eradicate any discriminatory practice, as sweepingly defined in section 1.

Ratification of the convention by the Senate would oblige the Nation under international law to engineer radical, legal innovations. At present, the Constitution condemns distinctions by government based upon gender unless substantially related to furthering an important goal.

Moreover, the Constitution omits restricting gender discrimination by private organizations or individuals.

The convention would require amending the Constitution both to reach the private sector and to prohibit gender distinctions that are noninvidious, but with an adverse impact on women. The consequences would be breathtaking.

Women could neither be exempted from military draft registration or conscription nor excluded from combat duty positions. All male-only private clubs and single-sex schools would be proscribed. Fetal protection policies in the workplace would be illegitimate. Mothers could not be sanctioned for reckless drug use during pregnancy that impaired the physical and mental health of their newborns. The Roman Catholic Church, the Mormon Church, and other religions would be compelled to admit women into all religious offices, in contradiction to their religious creeds.

Laws banning surrogate motherhood for a fee would be dubious. The convention would seem to prohibit private or government re-

strictions on abortions, including a failure to fund or offer abortion services if other medical care is subsidized or offered. That conclusion rests on the congressional declaration in Title 7 of the 1964 Civil Rights Act equating pregnancy or childbirth distinctions with gender distinctions.

The impact of the convention on employment practices would be especially pernicious and pronounced. Women could not be excluded from jobs, even if maleness was a bona fide occupational qualification, such as an all-male prison warden. Veterans' preference statutes would be illegal because they perpetuate the effects of past, wholesale exclusion of women from the military. Maternal leave would be required in all workplaces.

But the most revolutionary part of the convention is buried in the article 11, subsection (d). It demands an upheaval in pay scales to equalize remuneration in respect of work of equal value. At present, a 1985 study showed that over two-thirds of working women are employed in occupations in which at least 70 percent of the workers are female. But under the work of equal value standard, woolly-minded economists and social engineers would be licensed to adjust emoluments in competitive labor markets to advance their idiosyncratic conceptions of utopia.

They would address such conundrums as whether the boxing labors of Mike Tyson are of equal value as the labors of hospice nurses; whether the handsome rewards of congressional service reflect a work value equivalent to that of female cadets, making a discount for the savings and loan bailout fiasco; whether the artistic toils of Madonna are as equally valuable as the lapidary basketball virtuosity of Michael Jordan. Perhaps Senator Simon could comment on that.

The elusive work of equal value loadstar of article 11 would acutely distort employment markets and dramatically depreciate productivity.

Article 4 of the convention casts a cloud over the 50-percent quota of women delegates to the national conventions of the Democratic Party. Articles 5 and 10 are daggers at free speech. The former would require Government censorship of movies, television, books, or other forms of expression, such as Two Live Crew's rendition of "Nasty As You Want To Be," which portrays women in a stereotypical or degrading fashion.

It would dictate Government-sponsored inculcation of the idea that husbands and wives should invariably be equally and commonly involved in child rearing.

Article 10 compels censorship of textbooks and curriculums that the Government believes furthers stereotypical thinking about the sexes. It also requires Government disparagement of single-sex education.

Finally, the convention might embarrass American business abroad by requiring application of the Nation's nondiscrimination laws extraterritorially, in countries who customs frown on prominent female participation in commerce.

In sum, the legal extremism in portions of the convention should caution against hasty action. Fetching slogans are no substitute for sober and exact thinking and precise draftsmanship.

Thank you for this opportunity.

Senator SARBANES [presiding]. Thank you.

Ms. Smith, we will now hear from you.

Let me just say that there is a vote on, and when the bells ring again, those of us who are here will have to leave in order to make the vote. If the chairman has not at that point returned, I will recess the hearing and he will be back, and we will then be able to take the balance of your testimony.

But I wanted to forewarn you of this before you began so you understood the situation.

STATEMENT OF ELLEN SMITH, FIELD LEGISLATIVE COUNSEL, CONCERNED WOMEN FOR AMERICA, WASHINGTON, DC

Ms. SMITH. Mr. Chairman, thank you for this opportunity to meet with you and your colleagues on the Foreign Relations Committee to address the convention on the Elimination of All Forms of Discrimination Against Women.

In my testimony today, I am addressing the document on its face and will not offer specific recommendations as for the adoption of reservations to the convention.

I am here this afternoon on behalf of Concerned Women for America, an organization representing over 700,000 members across the Nation. Our stated purpose is to preserve and defend the timeless legal and moral values upon which this Nation was founded and the traditional American family.

The convention being considered raises a number of issues of concern for our organization and our constituents.

The U.S. Supreme Court has applied the equal protection clause of the 14th amendment and the due process clause of the 5th amendment to invalidate State and Federal laws requiring disparate treatment of similarly situated men and women.

Senator SARBANES. I think we had better recess. Otherwise Senator Simon and I will not make this vote.

When Chairman Pell returns, he can pick up. I apologize to you, but we have no control over these votes.

I say to the panel that it has been very helpful to me to hear from you.

Ms. Smith, I will read your statement. In fact, I have read it.

I won't be able to return. I would like to just leave a general question to the panel. I hope they will get back and forth amongst themselves as to whether the convention does or would do some of the very far-reaching things which it has been asserted it would do. Mr. Fein has just laid out something of a laundry list, and I hope the other panelists will have an opportunity to put on the record their own view as to whether the convention encompasses that; and second, if in fact there is some legitimate concern, whether that concern can be addressed in the process of dealing with the convention in the course of the use of reservations and understandings, which is a time-tested tool, actually, for addressing concerns that may have some legitimacy to them.

Senator SIMON. Mr. Chairman.

Senator SARBANES. Senator Simon.

Senator SIMON. I hope to be back, but I thought you might be interested in my reason for absence.

In the Judiciary Committee, we have been marking up a bill. Five years ago, I started a policy of holding all Federal judge nominees who belong to clubs that discriminate. This morning, the Judiciary Committee adopted as a policy of the Judiciary Committee that we will, from now on, not approve any judges that belong to groups that discriminate. So, we are making some progress. [Applause.]

Senator SARBANES. The committee will stand in a short recess. Thank you all very much.

[A brief recess was taken]

The CHAIRMAN [presiding]. The Committee on Foreign Relations will come to order.

I apologize for the occasional disappearance of the members, but there is a rollcall vote going on which called us away.

I believe Ms. Smith was in the middle of her testimony. I would ask her to carry on.

Ms. SMITH. Thank you, Mr. Chairman.

As I mentioned before the recess, the Supreme Court has applied the equal protection clause of the 14th amendment and the due process clause of the 5th amendment to invalidate State and Federal statutes requiring disparate treatment of similarly situated men and women.

This understanding provides reasonable flexibility by allowing for commonsense distinctions that serve important governmental objectives.

In addition, current Federal and State statutes prohibit discrimination against women in employment, housing, education, credit, immigration, and a number of other areas. Concerned Women for America has consistently supported the firmly rooted principle in American jurisprudence of equality under the law.

Were this convention limited to these basic, legitimate concerns for constitutional and civil liberty, our objection would be less strenuous. However, the convention assumes a definition of "discrimination" that is of astonishing breadth and goes far beyond the understanding of discrimination as it has been addressed in American law.

Furthermore, the convention is applicable not only to governmental actions and policies, but to private associations and organizations, and even to private individuals in the scope of their thoughts, customs, and interpersonal interactions.

The result or perhaps the objective of adopting such a comprehensive definition is to demand by logical extension policies having the de facto effect of eliminating not only commonsense legal distinctions between men and women, but of eliminating the situational distinctions in virtually every sphere of human endeavor.

In addition, the understanding of human rights, as articulated in the convention, is by no means universally accepted in this country as embodying wise or prudent public policy, much less as embodying fundamental human rights.

The drafters of the convention have used the rhetoric of women's rights to advance a vision of society which presupposes the propriety of extensive, even statist, economic and social planning. Ironically, while the nations of Eastern Europe are hurriedly rejecting

these precept positions, the U.S. Senate is being wooed to accept these policies as embodied in this document.

Those articles of the convention addressing substantive issues read like a laundry list of antifamily policy objectives that have failed to gain acceptance as domestic policy initiatives. For example, article 11 envisions extensive Government intervention into the private sector; not mere pay equity, but Government wagesetting through comparable worth programs, Government child care and Government determination of employee benefits, such as paid leave.

The convention also attempts to break down the natural walls defining and distinguishing the jurisdictions of individual, family, and society. Perhaps the most brazen example is found in article 5, section (b), regarding family education, implying that families should be taught the political proper fashion in which to arrange their private affairs and teach their children.

Furthermore, civil libertarian concerns are raised by article 5, section (a), referring to measures to modify social and cultural patterns, and article 10, effectively calling for Government censorship of textbooks to purge them of unapproved ideas. The convention does not appear to restrict this provision to public education.

One of the primary concerns raised during the debates over the equal rights amendment was that its innocuous sounding language was so vague as to allow for unspecified and ill-defined ramifications. A number of key provisions in this convention raise similar concerns.

Articles 14 and 16 address family planning issues, including the right to access to the information, education, and means to enable the exercise of the rights to space of and number of children. This language could quite reasonably be construed to mandate public financing of abortion on demand without restrictions. The American people have issued no such mandate.

Article 24 of the convention obligates the states parties to undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present convention. On the most fundamental level, we object to the convention's definition of "discrimination" and its characterization of these so-called rights. In fact, by equating rights with particular and controversial political objectives, the convention trivializes the very notion of human rights, or, in the language of the Declaration of Independence, the "unalienable rights endowed by the Creator."

Thank you, Mr. Chairman.

[The prepared statement of Ms. Smith follows:]

PREPARED STATEMENT OF ELLEN SMITH

Mr. Chairman, thank you for this opportunity to meet with you and your colleagues of the Foreign Relations Committee to address the Convention on the Elimination of All Forms of Discrimination Against Women. In my testimony today, I am addressing the document as a whole and will not offer specific recommendations as to the adoption of Reservations to the Convention.

I am here this morning on behalf of Concerned Women for America, an organization representing over 700,000 members around the nation. Our stated purpose is to preserve and defend the timeless legal and moral values upon which our nation was founded and the rights of the traditional American family. The Convention present-

ly being considered raises a number of issues of concern for our organization and our constituents.

The United States Supreme Court has applied the Equal Protection Clause of the 14th Amendment and the Due Process Clause of the 5th Amendment to invalidate state and federal laws requiring disparate treatment of "similarly situated" men and women. This understanding provides reasonable flexibility by allowing for common sense distinctions that serve important governmental objectives. In addition, current state and federal statutes prohibit discrimination against women in employment, housing, education, credit, immigration and a number of other areas. Concerned Women for America has consistently supported the firmly rooted principle in American jurisprudence of equality under the law.

Were this Convention limited to these basic, legitimate concerns for constitutional and civil liberty, our objection would be less strenuous. However, the Convention assumes a definition of discrimination that is of astonishing breadth and goes far beyond the understanding of discrimination as it has been addressed in American law. The document defines "discrimination" as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women * * *" of their rights. Furthermore, the Convention is applicable not only to governmental actions/policies, but to private associations and organizations and even to private individuals in the scope of their thoughts, customs and interpersonal interactions.

The result, or perhaps the objective, of adopting such a comprehensive definition, is to demand, by logical extension, policies having the *de facto* effect of eliminating not only common sense distinctions between men and women, but of eliminating their situational differences in virtually every sphere of human endeavor.

Whether or not the treaty is self-executing is at best unclear, although the Convention calls for "appropriate measures" to implement its provisions. Even if the provisions cannot be judicially enforced apart from implementing legislation, the understanding of "human rights" as articulated in the convention are by no means universally accepted in this country as embodying wise or prudent public policy, much less as embodying fundamental "human rights."

This Convention is not about the elimination of "discrimination" against women or the protection of fundamental human rights. Rather, the drafters have used the rhetoric of "women's rights" to advance a vision of society which presupposes the propriety of extensive economic and social planning. Ironically, while the nations of Eastern Europe are hurriedly rejecting these presuppositions, the U.S. Senate is being wooed to accept such bankrupt policies as embodied in this document.

Those articles of the Convention addressing substantive issues read like a laundry list of radically feminist, anti family policy objectives that have failed to gain acceptance as domestic policy initiatives. For example, Article 11 envisions extensive government intervention into the private sector: government wage-setting through comparable worth programs, government child care and government determination of employee benefits such as "paid leave".

The Convention also attempts to break down the natural walls defining and distinguishing the jurisdictions of individual, family, and society. Perhaps the most brazen example is found in Article 5 Section (b) regarding "family education," implying that families should be taught the politically proper fashion in which to arrange their private affairs and train their children. Motherhood is mechanistically defined as a "social function," conjuring up images of women bearing children out of service to society. Furthermore, civil libertarian concerns are raised by Article 5, Section (a), referring to measures to "modify" social and cultural patterns, and Article 10, effectively calling for government censorship of textbooks to purge them of unapproved ideas. The Convention does not appear to restrict this provision to public education.

One of the primary concerns raised during the debates over the Equal Rights Amendment was that its innocuous sounding language was so vague as to allow for unspecified and ill-defined ramifications. A number of key provisions in this Convention raise similar concerns. For instance, Articles 14 and 16 address a number of family planning issues, including the right to determine the "number and spacing of * * * children" as well as the right to "access to the information, education and means to enable" the exercise of those "rights." This language could quite reasonably be construed to mandate public financing of abortion, on demand, with no restrictions whatsoever. The American people have issued no such mandate.

Contrary to what you may hear from the proponents of this agenda, these initiatives do not necessarily reflect or represent the views and convictions of the majority of American women. In effect, they constitute "ERA" on an international scale, abortion on demand, and numerous other controversial policies that have been re-

jected by the American people and by our duly-elected representatives in this republic. In addition, the Convention would trample upon individual liberties, the Judeo-Christian model of the family, and our national sovereignty. Without qualifying reservations, the Convention violates Constitutional and historical principles of federalism by dictating policy in areas such as education and domestic relations, heretofore deemed among those powers retained by the states. Furthermore, if indeed the Convention is self-executing, it circumvents, in heavy-handed fashion, the normal legislative process as it relates to domestic policy.

Article 24 of the Convention obligates the States Parties to "undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention." On the most fundamental level, we object to the Convention's definition of discrimination and its characterization of these so-called "rights." In fact, by equating rights with particular and controversial political objectives, the Convention trivializes the very notion of human rights, or, in the language of the Declaration of Independence, the "unalienable rights" endowed by the Creator. We are convinced that the most pro-family, pro-women policy this body can pursue is one that continues to protect legal equality of opportunity, as already secured by the Constitution and statutes of this nation.

PREPARED STATEMENT OF PHYLLIS SCHLAFLY

The United Nations Convention on Discrimination Against Women, which was signed by President Jimmy Carter 10 years ago should not be resurrected from the dustbin of history and ratified. This treaty would interfere grievously with our constitutional federal-state balance of powers. It would bring federal and even international regulation into areas which are constitutionally reserved to state, local or private discretion. It would overturn or change many of our current laws. It would subject our society to attempted regulation by an international committee made up of persons who have no understanding of, or respect for, the inalienable rights enjoyed by American women.

The "Memorandum of Law" provided to the Senate in 1980 by the Department of State under Secretary Edmund Muskie (of course, the treaty is the same today as it was then) contains many revealing admissions which prove that this U.N. treaty is totally alien to our American constitution and culture. Here are just a few of these State Department admissions:

Article 3 states that the treaty intends to control "private organizations and even interpersonal relationships" and that it will "reach into areas that are not regulated by the Federal Government." I can assure you that American women will not take kindly to Congress or any international body trying to regulate our interpersonal relationships.

Article 2, sections (b), (c), (d), and (f) would require changes in our laws that register males only for military service, assign males only to combat duty, and grant veterans preference for government jobs. The State Department Memorandum patronizingly says that these U.S. laws "have yet to be modified" and that "corrective legislation" may be necessary. The State Department apparently believes that the treaty will compel us to pass this "corrective legislation" to conform to the treaty, but the American people and Congress have repeatedly reaffirmed that they reject a mindless sameness of gender treatment in these areas.

Article 2, section (e) would require the Congress to pass "appropriate corrective legislation" to regulate "membership in private clubs or organizations." No exceptions are indicated even for religious organizations. Hasn't Congress enough problems without taking on this type of interference in the private sector?

Article 5 would require us "to modify the social and cultural patterns of conduct of men and women" and to give assurances about "family education." The State Department memorandum expresses "potential concern" about this, but we should be more than just concerned. It is totally UNacceptable for a treaty to obligate us to do these things.

Article 10 would make it a federal responsibility to ensure the "elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education." The State Department memorandum points out that the administration of schools and revision of textbooks are NOT federal functions in the United States. Yet, the treaty would bind us to impose federal regulations on everything pertaining to the education of women, including "encouraging coeducation," without differentiating between public and private schools.

Article 11(d) would require Congress to legislate comparable worth (equal pay for "work of equal value" NOT equal pay for equal work)—the feminist notion that gov-

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ernment functionaries should control wages based on their own subjective notions of "value." Fortunately, Congress has never passed comparable worth and U.S courts have refused to impose it. All the countries that rely on government-set wages have lower wages and lower standards of living than ours.

The State Department memorandum did not catch all the provisions of this treaty that are offensive to Americans. Here are several of the many other objectionable provisions.

Article 4 authorizes and legitimizes quotas in employment. It states that adoption of special measures "aimed at accelerating *de facto* equality between men and women shall not be considered discrimination."

Article 11, section 2(c) would require "the establishment and development of a network of child-care facilities." One wonders if the real purpose behind the current push for this old treaty is to force on American families the Senate, ABC, or the House Hawkins-Downey Daycare bill because its sponsors know that President Bush will veto those bills if they go to his desk. An internationally mandated daycare network is unacceptable to American mothers and fathers.

Article 16, section 1(e) is an abortion-on-demand provision. It would require us to allow women "to decide freely and responsibly on the number and spacing of their children." We certainly don't want some international body to legislate in the area of abortion.

Article 17 would bring us under the supervision of a "Committee" of 23 so-called "experts" elected from various countries, including the U.S.S.R. and China. The committee would inevitably be dominated by Soviet-bloc and Third World dictatorships, without any guarantee that the United States would even be represented.

The State Department memorandum suggests at several points that a Senate-passed "reservation" might save us from the obnoxious consequences detailed here. However, the treaty itself closes that door: Article 26 states that "a reservation incompatible with the object and purpose of the present convention shall not be permitted."

This U.N. treaty may be good for other countries where women do not enjoy the rights that American women take for granted. But it would be an embarrassment for the U.S Senate to ratify it because it is so contrary to American institution, culture, traditions, Constitution, and relationships. If the U.S. Senate thinks it can offer this treaty as a gift to American women, the Senators will find that American women not only will NOT appreciate the gesture, American women will be highly offended.

The CHAIRMAN. Thank you very much, indeed.

I believe that Senator Sarbanes, before he left, asked if any of you were concerned with the points that Mr. Fein had raised. I would like to know if any of you have any comments on Mr. Fein's testimony.

Ms. BOCSKOR. Yes, Mr. Chairman.

The CHAIRMAN. Ms. Bocskor.

Ms. BOCSKOR. I would like to make a comment if I may.

I notice that both the administration and Mr. Fein raised the question of military service, which I believe is a strawman. This convention does not address the issue of military service. The negotiating history of the convention does not address the issue of military service.

I believe this issue was originally raised probably within the context of the ERA, and in those debates in the Congress and elsewhere, various parties against the ERA said "Well, if we adopt the ERA, won't this require all women to have to be drafted into military service?"

Now, the question of military service, let me repeat, has nothing to do with this convention. Most international conventions that cover specific topics, as this one does, unless the negotiating history mentions that we, the negotiators, mean to cover military service, it would not be covered by the terms of the convention. In addition, CEDAW, the United Nations committee which oversees the imple-

mentation of this convention, does not question ratifying countries on their situation with respect to women in the military.

Let me give you another example about the military. The International Labor Organization adopts conventions with respect to working conditions. They have many conventions on discrimination and on areas of employment. All of these conventions specifically exempt the military.

In international law, it is well understood that the military is considered to be sui generis; that is, a special situation. If an international treaty does not address the topic of the military, it means that it is not supposed to be covered at all.

The point I am trying to make is this point about if the United States ratifies the convention, then all women will automatically have to (*a*) be put into combat positions in the military, or (*b*) be subject to the draft, is simply a straw issue. It is not relevant to this convention at all.

Mr. FEIN. If I could respond, Senator, I think that is an inadequate reading of this convention.

Article 1 explicitly, without any ambiguity, has its application against discriminatory treatment—and here I am reading—"to apply to political, economic, social, cultural, civil, or any other field." There is not any exemption for anything.

In describing in article 2 the means that should be undertaken and pursued to prohibit any kind of discrimination, there isn't even a syllable, not even a letter, that suggests an exemption for military service.

Moreover, if it is decided that there is an unstated understanding that you don't read the words of the convention, that certainly has not been the acceptance in the U.S. Supreme Court when it has interpreted treaties. Justice Scalia wrote just this last term that the words of the treaty are the foremost indicators of what was intended.

Moreover, it would seem to me that, if the idea that is being suggested, that if there is something that would be shocking in a result, you simply ignore the words, that would suggest all sorts of exemptions. For instance, as my testimony indicated, what about an exemption for discrimination in religious organizations—the Mormon Church, the Roman Catholic Church, or others? That sort of shocks the sensibilities of Americans who have cherished church-state separation.

Is it being suggested by the American Bar Association that you don't read "any other field" to mean not including religion?

The CHAIRMAN. We have heard your view and we have heard Ms. Bocskor's. We will agree that you both disagree.

I would like to ask a question of Ms. Fraser. I believe you have followed this committee of experts nominated by the states, and they have had 9 meetings. As I understand it, you have attended some of those meetings.

Ms. FRASER. Right.

The CHAIRMAN. Where do those meetings take place and are they proving of any value?

Ms. FRASER. Yes.

The meetings alternate between New York and Vienna, the U.N. headquarters. The members of CEDAW are elected by the states

parties. So, therefore, the United States can never be a member of CEDAW until we ratify. They are elected by majority vote for 4-year terms. A very distinguished jurist, an Australian, Judge Evatt, now heads the committee.

We have monitored, and what the committee as well as the convention envisions is not perfection under this treaty but progress in moving toward eliminating discrimination against women. I think in article 2, if I am not mistaken, or at some point, countries can talk about obstacles that they are encountering in implementing this convention.

So, what we are talking about is a process, not so much as an end result. If we were talking about end results, most of the countries of the world could not ratify.

The CHAIRMAN. Thank you very much.

I would now turn to Senator Simon.

Senator SIMON. Thank you very much.

First, I apologize for being in and out here today.

I was not here when the State Department testified. I wonder if any of you has any comments on what they had to say about the lack of movement, any one of you.

If I may, I would ask the representative of the American Bar Association and then ask my longtime friend, Arvonne Fraser, for her reaction.

Ms. BOCSKOR. Yes, Senator Simon. I do have a comment. I assume that you are referring to the administration's position that they cannot come forward with any recommendation on this convention or on any other until the Torture Convention deliberations are completed.

Senator SIMON. That is correct. I understand that they suggested there has to be a lot of legal work they have to go through before they can make a determination.

Ms. BOCSKOR. Yes.

The American Bar Association's position on that is that we can, and indeed should, move simultaneously on these other conventions, including the Women's Convention. We would not put in ranking order any of the conventions, where we would suggest movement be first.

We are, of course, here urging U.S. ratification of the Women's Convention and our position is that it should have been ratified by the United States in 1980. It should have been ratified in 1984, when the ABA adopted its resolution. It should be ratified next week.

We do not hold with the point of view put forward by the State Department that there is any legal or other reason for delay, for ranking, for waiting for one convention after the other.

Senator SIMON. And your understanding is that the State Department is more than a two-person shop and they might have people who can do the work on something like this in the meantime if they believe it is important?

Ms. BOCSKOR. Yes, Senator Simon.

Let me also offer the assistance of the various bar associations that have been studying this convention and other international human rights conventions for many years, that is, not only the ABA but the Federal Bar Association, the American Society of

International Law, and the Women's Bar Association of Washington, DC. We will all be happy to give the State Department and the Justice Department the benefit of our legal studies.

Senator SIMON. Ms. Fraser and then Ms. Horwitz and any of the other witnesses who wish to respond.

Ms. FRASER. I would agree with the response just given. I would oppose rank ordering. I think that just promotes dissension within the human rights committee.

I have been in this city a long time, though I am not now resident, and I know that where there is a will, there is a way to get things done. There has been a lot of work done already.

I will leave it at that.

Senator SIMON. Thank you.

Ms. Horwitz.

Ms. HORWITZ. I certainly agree with the opinions of my colleagues.

President Bush recently said that the United States was a model for the rest of the world in these times. This is not proving the United States to be a model where it comes to the rights of women and the issues that are addressed by this treaty. Rather, I see him retreating. I see the administration retreating from any inclination to deal with it, and it makes me very uncomfortable about what the administration plans.

Senator SIMON. To my friend, Bruce Fein, if I can say, your litany of all the horrors that this is going to bring about reminds me of the litany that I hear on the equal rights amendment and all the things there. You did not mention men's and women's toilets. That's the only thing you forgot to list in your testimony. [General laughter.]

You are acquainted with something called a "sense of the Senate resolution," where we adopt something. It doesn't mean that we have to live up to every item in it. But it sets up some goals for us that are important.

I think this, like the Universal Declaration of Human Rights—you know, we don't live perfectly up to the Universal Declaration of Human Rights. But I think we did the right thing by becoming part of such a declaration.

Much of what you criticize, incidentally, for example, censorship, I don't think it calls for anything like that. But there are areas where we are not complying and we are not likely to comply in the near future. But I think as a goal that we accept, it seems to me it is desirable.

Mr. FEIN. Oh, I agree with that, Senator.

I do not think, however, that it is proper to aspire to particular goals that you probably would not want to achieve, in reading the convention, in terms of its language.

Let's come back to the issue of religious organizations. Some of them do discriminate against women on the basis of their religious creed. It is sort of a part of our reverence for our church/state separation that we do not require, for instance, that all positions in the Roman Catholic Church be available to women.

It is unambiguous with this convention that we would set ourselves, as a Nation, you would, as a Senator, Mr. Simon, that you would want to eliminate that preserve of religious freedom and re-

quire that there be nongender discrimination in all religious creeds, no matter what.

I think one ought to hesitate before you jump on to a goal that has such implications. I think the problems I have raised can be dealt with sensibly. But you need a scalpel here to carve out what goals, even if we don't meet them, you want to pursue, which goals may seem to be counterproductive, and also perhaps in some sense, if you do not intend to meet the goal, put in a reservation to that intent.

We ought not to be dishonest, because the words of the convention require us to aspire; that is, to sponsor legislation, not just sit on our hands. We ought not to treat conventions as scraps of paper, as the German Foreign Minister did about Belgium's neutrality. "Well, who cares? That treaty, that's just a scrap of paper."

They are serious documents and we ought not to be frivolous about what our intentions are here. I think that is what requires a more exact examination of the language.

You suggested that well, you don't think article 5 or 10 would require us to pursue some kind of censorship to eliminate what Government thinks is role stereotyping in public and private life. But those are the words of article 5. I am not just drafting this out of my head. It says that the parties "shall take appropriate measures," which includes legislation, to ensure a style of family education, recognizing that both men and women should be involved in the upbringing and the responsibility of the children. That is a mandate.

Senator SIMON. I see Arvonne Fraser is eager to respond. Then if I may respond briefly, I would conclude, Mr. Chairman.

Ms. FRASER. Well, I want to suggest that I hear the gentleman on my right suggesting that men and women do not have equal responsibilities for children.

I think one can have disagreement between men and women and between different political groups, but I think this country essentially does aspire to freedom, and that freedom includes the freedom to disagree.

I think we also have the idea of separation of church and state, and I know there are a lot of women within religions, good believers in this country and many other countries, who do believe that within religion, discrimination is a sense of the way the religion has been interpreted and practiced, not the original.

I will leave it at that.

Senator SIMON. If I could respond, I agree with you, Bruce, that we should not regard this as just "another piece of paper." It should not be frivolous.

On the other hand, it is a document that has to be adapted to every culture. Some of the things, for example, the elimination of stereotypes in textbooks, I don't think that means that we have to have censorship, either in this country or in other countries.

I hope we can eliminate stereotypes. But I don't want to have censorship.

In terms of church/state relations, you mentioned the Roman Catholic Church. I don't happen to be a Roman Catholic, but I belong to the Lutheran Church, the Missouri Synod Branch of the Lutheran Church, which has the same practices on the clergy that

the Roman Catholic Church does—I think unfortunately. Maybe this document would cause us to reexamine our policies a little more. Maybe some of the conservative and orthodox Jews would reexamine policies a little more in terms of sexism in terms of the clergy.

To force that reexamination seems to me to be a healthy thing.

Mr. FEIN. Oh, I would agree with that. But I still come back to the point, Senator, that this convention is not just a set of aspirations, as you have so eloquently stated, as to how we would like private individuals perhaps to reexamine their conduct and change things. It stipulates that the Government has the obligation to go forward.

It seems to me that it might be sensible to consider separating out what parts of the convention you want to hold up as aspirations for the people of the United States, somewhat like the Declaration of Independence, and what parts of the documents you really want to be entrusted to the Government to go forward and move on. It seems to me that those are two quite different sorts of things.

One is wholly consistent with our constitutional ethos; the other seems to me to require us to be at war with some of our own cherished precepts, like separation of church and state, but desiring to have women eligible for all positions in religion.

Senator SIMON. Thank you.

Thank you, Mr. Chairman.

Ms. BOCSKOR. Senator, may I respond briefly?

Senator SIMON. Yes.

Ms. BOCSKOR. Let me point out that article 2 of the convention says that states parties agree to pursue by all appropriate means these provisions in the convention.

I would respond to Mr. Fein's points exactly by pointing that out and by saying that under the U.S. Constitution, it is not appropriate for the U.S. Government to tell the Catholic Church that they must have women in the clergy.

From a strictly legal point of view—and I believe Justice Scalia would agree with this—reading the literal terms of the treaty, which says "all appropriate means," for the United States, operating under our Constitution, for example, with the religious/secular difference, that would be an appropriate means for the United States.

Thank you.

Senator SIMON. I thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I thank all of our witnesses for being with us and apologize for the delays caused by the rollcall votes. I believe that we should proceed as vigorously and hard as we can in moving ahead with this ratification.

[Whereupon, at 12:55 p.m., the hearing was concluded, to reconvene at the call of the Chair.]

APPENDIX

PREPARED STATEMENT OF THE HON. DANIEL K. ANAKA

Chairman Pell, as a member of the Congressional Women's Caucus and a staunch advocate of women's rights, I appreciate this opportunity to express my support for the Convention on the Elimination of All Forms of Discrimination Against Women and to urge swift Senate ratification.

The treaty, drafted and adopted by the United Nations General Assembly in 1979, was signed by President Jimmy Carter in 1980. Although the United States championed this international effort to eradicate human rights inequities throughout the world, a decade has passed without any Senate action except for a 1988 hearing in Boston chaired by Senator John Kerry.

To date, 103 countries have ratified the convention, including France, Germany, Japan, and even the Soviet Union. It is inexcusable that the United States is only now beginning to work on the treaty.

Mr. Chairman, this country has always prided itself on being a leader in the field of human rights and civil liberties. It are these fundamental freedoms embodied by our Constitution and the Bill of Rights that sets us apart from other countries. I am therefore disappointed that it has taken the Senate 10 long years to address the ratification of this convention.

The treaty specifically seeks to end sexual discrimination, a universal problem affecting both advanced and developing countries. As the role of women continues to change, the need for more comprehensive and global remedies becomes more apparent. The convention would serve as an effective instrument to achieve equality for women in every facet of life—politics, law, employment, education, health care, commercial transactions, and domestic relations.

Those who oppose the convention argue that it is too broad to be implemented in the United States because the treaty goes beyond our Federal statutes. While this may be true in some instances, it has not stopped many other nations with similar statutes from signing the convention.

Mr. Chairman, will the United States lead or follow the rest of world on the issue of discrimination against women? That is the question we face today. After 10 years of inactivity I call on my fellow Senators not to forsake the rights and privileges of American women and their sisters worldwide. We must adopt this convention so the United States can become a strong and active voice in seeking international solutions to sexual discrimination.

I do not mean to imply that Congress has been unresponsive to women's issues. On the contrary, because of congressional action on a variety of fronts, the United States has made great strides toward the goals proposed by the convention. Why, then are we reluctant to embrace the convention itself?

Mr. Chairman, allow me to list several key legislative initiatives of importance to the National Women's Political Caucus, a women's advocacy organization with approximately 50,000 members in all 50 States. All these initiatives are consistent with the goals of the convention, and demonstrate a willingness of some in Congress to defend the rights of women.

The caucus identified the Minimum Wage Restoration Act of 1989 as a bill that supported women's rights. Initially the minimum wage bill included an amendment I supported to increase the minimum hourly wage from $3.85 to $4.55. Unfortunately, President Bush vetoed the entire bill and the minimum wage was subsequently reduced to $4.25 an hour.

A second issue of concern to the Women's Caucus was S. 5, which was incorporated into H.R. 3, the Act for Better Child Care or ABC bill. This provided much needed relief to working women by removing some of the burdens and cost constraints of child care. A third piece of legislation, S. 2104, the Civil Rights Act of 1990, successfully passed the Senate after a lengthy floor debate. This act restored

job protection to women and other minorities from discriminatory practices and permits punitive damages in instances of intentional discrimination.

There is a very real concern that the bill also faces a Bush veto.

Another piece of legislation, although not cited by the National Political Women's Caucus, is the S. 345, the Family and Medical Leave Act of 1989. This bill would have ensured American families the right to unpaid leave for childbirth, adoption, or serious illness.

With 65 percent of all American women between the ages of 18–44 in the labor force, this bill would have guaranteed job protection in the event of an unforeseen family emergency or in the case of childbirth. Unfortunately, as with many other prowomen legislation, President Bush vetoed the measure and the House was unable to garner enough votes for an override.

Mr. President, I could list more legislation, other actions taken by Congress that have furthered women's rights in the United States. However, it is my firm conviction that we can and should do more. Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women would put the United States back into its rightful role as the preeminent leader in human rights. I call on my colleagues to join me in urging full ratification of the treaty.

Thank you for allowing me to provide this testimony.

PREPARED STATEMENT OF CONGRESSMAN JOHN EDWARD PORTER

I would like to commend Chairman Pell and members of the Senate Foreign Relations Committee for holding a hearing on the Convention on the Elimination of All Forms of Discrimination Against Women.

For 10 years, the United States has failed to act on a key human rights instrument protecting the rights of women. To date, 103 countries, including most Western nations, have ratified the Convention on the Elimination of All Forms of Discrimination Against Women. The United States is not one of them.

Clearly, the time has come for the United States to live up to our leading role in the arena of human rights. Women's rights are human rights. The Women's convention focuses attention on the human rights situation of women worldwide and, as such, brings pressure to bear on injustice against women.

The convention is not a radical document. It sets international standards for equal access to education, employment, and social benefits. It calls for, among other things, equal access to bank loans, mortgages, and other forms of financial credit and voting rights.

Our work in the United States to advance the status of women worldwide is hindered by our failure to ratify this convention. Ratification of the convention is recommended in the concluding documents of the Vienna/Helsinki agreements of the Commission on Security and Cooperation in Europe (CSCE). The United States was a signatory to these documents and should uphold its commitment.

I believe it is time for the United States to ratify this important human rights document.

PREPARED STATEMENT OF REPRESENTATIVE LYNN MARTIN

Mr. Chairman and members of the committee, I regret that it is impossible for me to personally be with you today to discuss the issues of human rights abuses against women and the U.N. Convention To Eliminate All Forms of Discrimination Against Women. I do believe that these are issues of great urgency and importance, however, and I congratulate the committee for convening this hearing and thank it for giving me the opportunity to contribute.

Mr. Chairman, the women's convention says nothing about rights and prerogatives for women that hasn't long been accepted by the vast majority of Americans. It calls for women to be protected by an effective legal framework which acknowledges the family as a foundation of society and helps to preserve it. It calls for women to be provided equal access to education, employment, social benefits, and adequate health care and family planning. It calls for women to be allowed to enter contracts, administer property, and participate in the legal processes of their countries. It calls for women the world over to have the rights to vote and to hold public office.

To a majority of Americans, the women's convention wouldn't seem to be asking for a lot. In much of the world, sadly, it is asking for a great deal. Women, to an appalling extent, are today being systematically denied not only the most basic of

legal rights, but their very dignity as human beings in much, if not most, of the world.

In various places around the world, young women are still being sold into unwanted marriages or coerced into prostitution. Millions upon millions of young women are denied access to public education. In courts of law, women's testimony counts for less than a man's.

Violence against women—including assault, mutilation, murder, infanticide, and rape—is endemic in many parts of the world. In order that their-husbands may claim new wives and new dowries, women are the frequent victims of fatal "accidents' in many places—a favored scam is to set the woman alight with kerosene and then claim she died in a kitchen accident. In Thailand a reported 50 percent of married women are regularly beaten by their husbands. In the barrios of Ecuador as many as 80 percent of women are physically abused. In Iran, imprisonment and torture are frequently the price to be paid for appearing unveiled in public.

In Nepal and in China, Mr. Chairman, female babies, in deference to their male siblings, are killed or left to die of neglect. Last year in South Korea four young sisters attempted suicide with rat poison so that their parents would have enough money to send their brother to school. "He is more important than we are," one of the survivors explained during her recovery. The litany of socially tolerated cruelties against women is a long and agonizing one.

Raising barriers against discrimination and oppression of women is more than an ethical imperative, its an economic development imperative as well. The injustices and humiliations which women suffer become all the more appalling when one considers the substantial economic contribution that they make. Throughout the Third World in particular, the economic role of women is critical. Women make an overwhelming contribution to food production. Women do much of the most backbreaking physical labor. They prepare food and care for children—often a multitude of children. Discrimination and violence against women saps the physical and emotional strength and vitality that they need to carry on these varied and critical tasks within their struggling societies.

The United States and the world community, Mr. Chairman, can brook no arguments holding that these practices, because they are "traditional" or "customary," are less than intolerable, uncivilized; and cruel.

Mr. Chairman, ratification of the women's convention by the United States would represent a small but significant and important step toward addressing these injustices. The principles and objectives inherent in the convention are consistent with the principles, objectives, and values that this Government and this Nation hold dearest and which we believe have universal relevance and validity.

U.S. ratification of this convention would make ours a more clearly heard, better understood, and more effective voice on behalf of women's rights around the world. The world, Mr. Chairman, needs that voice badly.

Mr. Chairman, last month Senator Boschwitz, Congresswoman Schneider, and I organized a letter to the President which urged administration support for ratification of the women's convention. A similar call to action was forwarded to your attention. I find it extremely heartening and commendable that you have responded to that call in so timely and enthusiastic a manner. It is my hope that the administration will now follow suit and that by the end of this Congress the United States will have joined with the 101 nations that have already ratified this very important treaty.

Again, Mr. Chairman, I thank you for this opportunity to contribute to today's hearing record and I commend you for your enthusiastic response to our call for action regarding this matter.

PREPARED STATEMENT OF REPRESENTATIVE BARBARA VUCANOVICH

Mr. Chairman and distinguished members of the committee, I urge rejection of the United Nations Convention on the Elimination of Discrimination Against Women, which was signed by President Jimmy Carter in July 1980. For 10 years, the Senate has not ratified this multilateral treaty—and with good reason.

On June 11, 1990, I joined 11 other female Republican Members of Congress in sending a letter to President Bush urging administration support for U.S. ratification of the convention. I signed onto this letters because I support equal opportunity and equal rights for all women. Moreover, I support the concept underlying the treaty. However, upon obtaining and reviewing the "memorandum of law" prepared by the State Department which accompanies the treaty, I have serious questions. My primary concern is that the treaty is extremely vague. The interpretation there-

of can be so varied that its ratification and application could lead to several problems.

The most objectionable provision is article 16, section 1(e), which requires us to allow women "to decide freely and responsibly on the number and spacing of their children." What does this mean? It certainly can be read to require that abortion be legal throughout 9 months of pregnancy in order that women can fulfill the equality objectives of the treaty.

China, which is a signatory to the treaty and has had a representative on the regulatory committee, has interpreted it to allow its practice of compulsory abortion. The Chinese Communist regime contends that it is not "responsible" for a Chinese woman to give birth to more than one child. China's "Population-Control Program" has been widely accused of being pervasively coercive. Moreover, massive documentation from a variety of sources indicates that the Chinese population officials routinely force women to undergo abortions. If a country like China can interpret this treaty to justify its population-control policies, the treaty should be amended.

Mr. Chairman, other compelling reasons exist as evidence that this treaty should not be ratified. It could subject our laws to monitoring by an international committee dominated by Communist and Third World countries which have often shown little respect for their own women. Moreover, ratification of this treaty—in its present form—could alter domestic law in the United States by requiring implementation of thee articles therein into law. Some examples of unacceptable provisions are the following:

Article 11(d), which requires "equal remuneration" for "work of equal value," would require the United States to enact comparable worth into Federal law. The Congress and our appellate courts have repeatedly refused to legislate this notion, because it would require Government wage control. Justice Anthony Kennedy, who wrote the 1985 Ninth Circuit Court of Appeals decision in *AFSCME* v. *State of Washington,* noted that wage rates are determined by many factors outside the employer's control, including the availability of workers willing to do the job and the effectiveness of collective bargaining. He wrote that employers do not violate civil rights by "competing in the labor market," and "neither law nor logic deems the free-market system a suspect enterprise." Apparently, some persons now want to do by treaty what they cannot get Congress and the courts to impose.

Article 1 makes clear that the treaty purports to control "private organizations and even interpersonal relationships" and that it will "reach into areas that are not regulated by the Federal Government."

Article 2, section (e) calls into question the issue of "membership in private clubs or organizations," and again warns that "appropriate corrective legislation or reservations may be necessary in these areas." I can only assume that the treaty would obligate us to pass Federal legislation regulating the membership rules of wholly private clubs. More importantly, the treaty makes no exception for religious organizations, churches, or church schools, and in section (f) specifically governs "customs and practices." This would violate our valuable separation of church and State.

Article 16, referred to earlier, would obligate the Federal government to take over the entire area of family law, including marriage, divorce, child custody, and property, which are currently in the exclusive domain of the States. This is definitely an area of concern.

Article 11, section 2 (c) requires "the establishment and development of a network of child-care facilities." Whether or not we set up a Federal day-care apparatus should be a decision for the U.S. Government to make without having to report to a committee comprised of representatives of foreign countries with systems vastly different from ours.

Finally, article 24 would obligate us "to adopt all necessary measures at the national level." This section alone should be enough to cause the Senate to reject this treaty, which is so out of touch with American institutions and the traditions of State control of many of these issues. It would also change domestic law by treaty.

Mr. Chairman, I support equal rights for women, but I don't feel that American women want to submit our laws and customs to the regulation, monitoring, and interference of an international committee. The Constitution of the United States must prevail over international agreements which violate American law. We are quite capable of enacting the Federal and State laws American women want without the oversight of a foreign committee. We save been a world leader on women's rights and in preventing discrimination of women in the past and will surely continue this trend in the years to come. This treaty, however, with all of its imperfections, should be rejected by the Senate.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 1, 1990.

The Honorable CLAIBORNE PELL,
Chairman, Senate Foreign Relations Committee,
U.S. Senate, Washington, DC 20515

DEAR MR. CHAIRMAN: We are writing to urge rejection of the United Nations Convention on the Elimination of Discrimination Against Women, which was signed by President Carter in July 1980. For 10 years, the Senate has not ratified this multilateral treaty—and with good reason.

On June 11, 1990, we joined 9 other female Republican Members of Congress in sending a letter to President Bush urging administration support for United States ratification of the above-mentioned convention. We signed onto this letter, because we support equal opportunity and equal rights for all women. Moreover, we support the concept underlying the treaty. However, upon obtaining and reviewing the "memorandum of law" prepared by the State Department which accompanies the treaty, we have serious questions. Our primary concern is that the treaty is extremely vague. The interpretation thereof can be so varied that its ratification and application could lead to several problems.

The most objectionable provision is article 16, section 1(e), which requires us to allow women "to decide freely and responsibly on the number and spacing of their children." What does this mean? It certainly can be read to require that abortion be legal throughout 9 months of pregnancy in order that women can fulfill the equality objectives of the treaty.

China, which is a signatory to the treaty and has had a representative on the regulatory committee, has interpreted it to allow its practice of compulsory abortion. The Chinese Communist regime contends that it is not "responsible" for a Chinese woman to give birth to more than one child. China's "population-control program" has been widely accused of being pervasively coercive. Moreover, massive documentation from a variety of sources indicates that the Chinese population officials routinely force women to undergo abortions. If a country like China can interpret this treaty to justify its population-control policies, the treaty should be amended.

Other compelling reasons exist as evidence that this treaty should not be ratified. It could subject our laws to monitoring by an international committee dominated by Communist and Third World countries which have often shown little respect for their own women. Moreover, ratification of this treaty—in its present form—could alter domestic law in the United States by requiring implementation of the articles therein into law.

Article 11(d), which requires "equal remuneration" for "work of equal value," would require the United States to enact comparable worth into Federal law. The Congress and our appellate courts have repeatedly refused to legislate this notion, because it would require government wage control. Justice Anthony Kennedy, who wrote the 1985 Ninth Circuit Court of Appeals decision in *AFSCME* v. *State of Washington*, noted that wage rates are determined by many factors outside the employer's control, including the availability of workers willing to do the job and the effectiveness of collective bargaining. He wrote that employers do not violate civil rights by "competing in the labor market," and "Neither law nor logic deems the free-market system a suspect enterprise." Apparently, some persons now want to do by treaty what they cannot get Congress and the courts to impose.

Finally, Article 24 would obligate us "to adopt all necessary measures at the national level." This section alone should be enough to cause the Senate to reject this treaty, which is so out of touch with American institutions and the tradition of State control of many of these issues. It would also change domestic law by treaty.

Mr. Chairman, we support equal rights for women, but we don't feel that American women want to submit our laws and customs to the regulation, monitoring, and interference of an international committee. The Constitution of the United States must prevail over international agreements which violate American law. We are quite capable of enacting the Federal and State laws American women want without the oversight of a foreign committee. We have been a world leader on women's rights and in preventing discrimination of women in the past and will surely continue this trend in the years to come. This treaty, however, with all of its imperfections, should be rejected by the Senate.

Sincerely,

BARBARA F. VUCANOVICH.
HELEN DELICH BENTLEY.
ILEANA ROS-LEHTINEN.

PREPARED STATEMENT OF REPRESENTATIVE CLAUDINE SCHNEIDER

Mr. Chairman and members of the committee, I appreciate this opportunity to submit testimony in support of ratification of the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This is an important initiative and I commend the committee for holding this timely hearing.

Mr. Chairman, as you know, 10 years ago on July 17, 1980, CEDAW was signed on behalf of the United States. The following November, CEDAW was sent to the U.S. Senate for ratification. Since then, ratification of CEDAW has gained broad based support for numerous religious, legal, civic, women's, and human rights organization. In addition, many Members of Congress from both political parties have pushed for expeditious ratification.

CEDAW's supporters recognize that the United States cannot effectively champion the cause of oppressed women without ratification. In short, ratification would put us in a far better position to foster meaningful improvements in the treatment of women worldwide.

The central tenet of CEDAW is that women are equal citizens before the law. CEDAW would establish rights for women in areas not previously subject to international standards. It calls for an end to discrimination against women in law, politics, education, health care, employment, commerce, and all other areas of endeavor.

Comparatively speaking, women in this country are truly fortunate. In other countries, women are subject to systematic discrimination, abuse, and violence. Domestic violence is painfully well documented in many countries. Women are often subject to torture and various forms of sexual assault during detention. Amnesty International and other groups have provided vivid and horrifying testimony to such abuse.

Mr. Chairman, ratification of CEDAW will not stop the abuse of women. It will, however, lend further credence to our leadership in promoting the cause of improving international human rights conditions.

Mr. Chairman, I am attaching a letter to the President I initiated with Senator Rudy Boschwitz and Congresswoman Lynn Martin. We were joined by the majority of the Republican women in the House of Representatives in urging administration support for ratification. Clearly, ratification of CEDAW is not, nor should be, a partisan issue.

I commend you for responding so quickly to the renewed, bipartisan initiative for ratification. With your support and the endorsement of the administration, CEDAW should quickly gain ratification. Thank you for allowing me to contribute to the record of today's hearing.

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC 20515
June 11, 1990.

The Honorable GEORGE H.W. BUSH,
President of the United States,
The White House, Washington, DC 20500

DEAR MR. PRESIDENT: We are writing to urge administration support for U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

The convention was previously submitted to the Senate in November 1980, nearly 10 years ago. In his letter of transmittal to the Senate, President Carter advised that there are no constitutional or other legal obstacles to U.S. ratification.

U.S. ratification of the women's convention has achieved broadbased support from legal, religious, civic, women's, and human rights organizations. Two legal studies by the American Bar Association have concluded that there are no significant legal impediments to U.S. ratification.

We understand that the Department of State currently classifies the women's convention as "under study." We would like to request that this convention be given priority status by the administration and that the Senate Foreign Relations Committee be urged to hold hearings on U.S. ratification.

Although the United States is a leader among nations in advancing the role of women, we feel that there is still much to be done in this country to eliminate discrimination against women. For example, the Washington Post recently reported a case in which a judge would not allow a married woman to assume her maiden name without her husband's written permission.

U.S. ratification of this convention is equally important for the role of this country as a leading advocate for international human rights. Our diplomatic representatives well know the difficulty of representing the United States in international forums when we ourselves have not ratified the basic international human rights conventions.

We feel that it is important for this administration to take the leadership in the area of equal rights for women both in the national and international arena as it has in the area of equal opportunity for minorities.

Sincerely,

Claudine Schneider, *Member of Congress;* Patricia F. Saiki, *Member of Congress;* Marge Roukema, *Member of Congress;* Helen Delich Bentley, *Member of Congress;* Constance A. Morella, *Member of Congress;* Susan Molinari, *Member of Congress;* Virginia Smith, *Member of Congress;* Lynn Martin, *Member of Congress;* Rudy Boschwitz, *U.S. Senator;* Nancy L. Johnson, *Member of Congress;* Barbara F. Vucanovich, *Member of Congress;* Jan Meyers, *Member of Congress;* and Ileana Ros-Lehtinen, *Member of Congress.*

PREPARED STATEMENT OF REPRESENTATIVE PATRICIA SAIKI

Mr. Chairman, as an executive member of the Congressional Caucus for Women's Issues, I want to thank you and the members of the Committee on Foreign Relations for inviting me here today to testify in favor of the U.S. ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

This treaty establishes legal standards for the treatment of women worldwide and can be best described as an international bill of rights for women.

The convention defines discrimination against women, suggests methods of eradicating discriminatory laws and practices, and establishes a committee whose purpose is to monitor the progress and compliance by the ratifying countries. An important feature of this committee is its intent to review compliance by countries with both the letter and the spirit of the convention. As we know from our own experiences in the United States, equality mandated does not always translate into equality practiced.

Today, many people will come before this committee and testify on the legal ramifications of ratifying this convention. I will defer to their expertise in the field of international law and limit my remarks to an area where I have had some experience. As a woman of Japanese-American ancestry, I know firsthand of the cultural and traditional barriers that keep women from full realization of their civil rights.

Fortunately, the barriers I had to contend with were more subtle, not explicit legal barriers, and I was able to progress in my chosen field.

However, I learned along the way, that my experience and I will venture that of most American women, are exceptions, and quite atypical from the manner in which most women of the world must live their lives.

Consider that in some parts of the world, even in this modern age women will be bought and sold in marriage contracts. Tragically, some of these same women will be killed because they did not bring an acceptable dowry to their groom.

Young girls will not be allowed to attend school, have access to medical care or even have enough to eat because they are female and in certain societies where resources are scarce, women are typically the last in line.

For many of these women there is no legal redress to shield themselves from these cultural practices. There may be no law or constitution for them to turn to as a basis for better treatment. If their country's laws do not afford them even a basis for protection or equal rights they are not only denied the right to be treated equally, but even the right to hope for a better life.

The United States with the ratification of this convention will send an important message to those countries. It will put them on notice that our commitment to human rights has taken on new strength and sense of purpose. It will allow us to aggressively set the standards for human rights worldwide.

Mr. Chairman, it is my firm belief that through the ratification of this convention the condition of all humanity will be elevated and I urge your committee to pass it for the full consideration of the Senate.

PREPARED STATEMENT OF AMNESTY INTERNATIONAL USA

INTRODUCTION

Amnesty International USA welcomes the opportunity to submit this testimony before the Senate Foreign Relations Committee on the importance of U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

Amnesty International is a worldwide human rights movement which since its inception in 1961 has worked for the release of "prisoners of conscience"—men, women, and children detained anywhere for their beliefs, color, sex, ethnic origin, religion, or language provided they have not used or advocated violence. Amnesty International opposes torture and the death penalty in all cases without reservation and advocates fair and prompt trials for all political prisoners.

Amnesty International is independent of all governments, political groupings, ideologies, economic interests, and religious creeds.

Amnesty International's work is solidly based on international human rights standards. The organization seeks to promote government acceptance of and adherence to these standards as set out in international human rights treaties as a means of establishing legal safeguards for the protection of human rights.

On September 18, 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter cited as the "women's convention") and by September 1981, the convention entered into force. The United States signed the women's convention on July 17, 1980 but, despite having played a pivotal role in the drafting of the convention, has not yet ratified it. As of this date, 103 countries are state parties to the women's convention. The United States is, at this time, the only industrialized nation that has not ratified this international human rights treaty.

The substance of the women's convention

The women's convention provides the world community with an international framework of standards for the recognition and protection of women's rights as human rights. The women's convention is a comprehensive codification of the right to nondiscrimination on the basis of gender. The convention defines "discrimination against women" as "any distinction, exclusion, or restriction based on sex, that has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women" of "human rights and fundamental freedoms." The convention calls upon all state parties to take appropriate measures in all fields to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men." States parties to the convention have a treaty obligation to undertake legislative, judicial, administrative, and other appropriate measures to abolish existing practices, laws, and customs which discriminate against women and violate their human rights and fundamental freedoms.

The convention contains 30 articles. The first 16 address the substance of the rights which range from equality between men and women before the law to equal access in the field of education. Articles 17 through 30 are procedural and for the most part address the establishment of the committee which will monitor the country reports of state parties to the women's convention, the Committee on the Elimination of Discrimination Against women (CEDAW).

HUMAN RIGHTS ABUSES

Amnesty International finds the women's convention relevant to its concerns. Article 3 of the convention prohibits all activities that violate women's human rights and calls upon the respective states parties to undertake measures to ensure that women's human rights are protected and promoted.

Amnesty International has documented myriad cases of abuses of men and women by government officials and found that women in custody may be more likely to face gender-specific violations of human rights, such as rape, sexual assault, and sexual intimidation. Women in vulnerable situations are often the victims of governmental abuse. There are numerous cases of pregnant women who upon being detained are tortured and face prison conditions that amount to cruel, inhuman, and degrading treatment. Some pregnant women are denied the most basic medical care and as a result they frequently miscarry.

In some cases, women are threatened with harm to their children, or the children are used to force the mothers to make a statement. Yet other Amnesty cases indicate the practice of torture against women as a way of threatening the community

or putting pressure on a male relative or friend. In many countries, women are detained, tortured, or even killed because of their association with a male counterpart.

These abuses occur in countries all over the world. The victims of these abuses are women of all ages, from all walks of life: agricultural workers, journalists, trade unionists, physicians, lawyers, students, homemakers, political activists, religious and community workers. They may be targeted by their governments for their beliefs, religion, political activity, race, nationality, or ethnic origin and once detained, are often subjected to violence.

Women activists targeted

Women are increasingly more visible in advocacy of political, social, economic, and human rights issues in many countries of the world. In Argentina, the Mothers of the Plaza de Mayo were among the first to publicly protest the "disappearances" of their children and the "Grandmothers of the Plaza De Mayo" pioneered in denouncing the stealing of children born to their daughters who were among the "disappeared" of Argentina. In South Africa, the Women of Black Sash and the Women of Detainees Support Committee organized to support men, women, and children in detention and to end apartheid. In the Israeli Occupied Territories, the Women's Work Committees provide vocational training opportunities for women, hold literacy and health education classes and provide kindergartens. In El Salvador, members of the Committee of Mothers and Relatives of Political Prisoners, Disappeared and Assassinated (CO-Madres) work to stop human rights abuses. These are just a few of the many organizations of women activists that are being formed around the world. Due to their human rights advocacy, members of these types of organizations are frequent targets of abuse by their governments.

Article 7 of the women's convention requires the Government to assure women's participation in all forms of public life, including participation in nongovernmental organizations concerned with the public and political life of the country. Amnesty International has documented numerous cases of women activists who have been detained, tortured, "disappeared," or killed because of the activities in organizations that promote civil, political, social, cultural, or economic rights or seek to protect human rights. States that have acceded to the women's convention have a legal obligation to guarantee the protection of women's human rights and fundamental freedoms.

In El Salvador, Maria Cristina Gomez, a teacher and member of ANDES (the National Union of Teachers) and CONMUS (National Coordinating Committee of Salvadoran Women) was killed on April 5, 1989. Every Saturday, she had broadcasted a 15-minute radio program with a feminist perspective. In late March 1989, she attended the opening of a women's clinic set up to examine and counsel rape victims, provide refuge to battered women, and lobby for changes in laws which discriminate against women. On April 5, she was abducted from the school where she worked by three armed men. Her body was found an hour later near the entrance to a cemetery in San Salvador with four bullet wounds.

In Guatemala, Elsa Castro has received threats against herself and her two young daughters because of her work with her trade union's women's group. Elsa Castro is a member of STECSA, the union which represents Coca Cola workers. On July 17, 1989, a woman she did not know approached her and told her "soon you will be crying." Two days later, as she was returning from a meeting of the women's group, she was approached by two men who told her they knew where she had just been and that she should look after her two daughters.

Both El Salvador and Guatemala are states parties to the women's convention and are therefore under the affirmative duty to take measures to ensure that women's human rights and fundamental freedoms are guaranteed.

Despite recent changes in the political situation in South Africa, human rights violations against women detainees continue. Debra Marakalla worked as an administrator for a leading black trade union, SAAWU. She is also a member of the Tembisa Detainees Support Committee and the Tembisa Women's Congress, which are organizations that support work on behalf of detainees and women's human rights.

At the time of her first detention, in July 1986, she was 3 months pregnant. Less than a fortnight later, she miscarried as a result of not receiving adequate medical attention. While in prison, she was seriously ill with asthma, headaches, and heart problems. She was finally released under a restriction order. Although not in prison, she suffers the long-term effects of trauma related to her arrest, imprisonment, and harassment.

Despite all that she has suffered as a direct result of her advocacy work on women and human rights issues, she continues to work for the Witwatersrand

Council of Churches assisting families of detainees. On April 12, 1990, Debra was among six members of the executive board of the Tembisa Youth Congress arrested under the state of emergency regulations. No reasons were given for their arrest. Debra was held in solitary confinement; isolated in a small cell. Marakalla went on a hunger strike and was transferred to a hospital. Shortly thereafter, she was released.

Women held in prison as hostages in lieu of male relatives

women have been jailed, sexually abused, and attacked by authorities, not because of anything they have done themselves, but in order to bring pressure to bear on or for information about male relatives. In Iran, one woman in her 20's was held for 14 months in Evin and Gohar Dasht prisons when her husband could not be found. In Syria, many women are held in lieu of male relatives being sought by authorities. Most of them are also tortured. Khadija Dib was 22 at the time of her arrest in July 1984. She had been arrested as a hostage while the authorities searched for her husband. One month after her arrest she was transferred to a hospital in Lataqiyya suffering from a hemorrhage of the uterus. She had reportedly been severely tortured on several occasions in an attempt to force her to reveal her husband's whereabouts.

Rape and sexual abuse

The rape of women and female children in custody by law enforcement officials is an intentional infliction of pain and suffering, both physical and mental. As such, it is a form of torture and clearly prohibited by international standards. Amnesty International USA is concerned that rape and sexual abuse in custody occur more frequently than our reports indicate. Many women do not report such abuses because of humiliation or fear of further assaults.

Rape and sexual abuse occur in women's homes, during the process of searches, arrest, and interrogation and while in detention by police, soldiers, guards, or others acting with official acquiescence. AI has noted cases of rape used as a reprisal by governmental entities against a local community. Amnesty is concerned by the refusal of government officials to investigate and prosecute local authorities who rape women in custody.

Maria Juana Medina was detained in El Salvador on Sept. 18, 1989, along with 63 others during mass arrests following a demonstration by the trade union federation FENASTRAS in El Salvador. Maria Juana Medina stated in a testimony to a Salvadoran human rights organization that during her detention, she was raped and repeatedly kicked in the abdomen, causing severe inflammation. She was hung by her feet over a stairwell and threatened with immersion in an electrified pool and with having her teeth pulled out it she did not confess to being a member of the FMLN. She denied the accusations, explaining that she had spent about a month in the FENASTRAS offices investigating the whereabouts of her daughter, who had "disappeared." She was examined on the third day of her detention by somebody who appeared to be a doctor, who recommended that she be taken to hospital immediately. The police refused, stating that this would reveal that they had used torture.

In Peru, a teacher, Raquel Martin de Mejia, was raped by soldiers in the presence of her 4-year-old daughter on June 15, 1989, after her husband, a human rights lawyer, was abducted by the army. She was detained for several days in a small army post in Abancay and threatened with being slashed with a knife and repeatedly raped. She was told that she would be killed if she revealed how she had been treated.

In a report released in March 1990, AI documented another facet of rape in detention—female prisoners being forced to perform sexual favors. A woman arrested in N'Djamena, Chad, in 1987, possibly because she had made inquiries about her "disappeared" husband and son, was taken with 10 other women prisoners to a military post in northeast Chad. They were forced to serve as slaves performing hard labor and forced to have sex with the soldiers. The women were then subjected to similar treatment at a second barracks.

1. Rape as reprisal

AI has documented rape carried out by police or other security or military authorities as reprisals against a community or an individual. In India, in Bihar state, six tribal women of Ghatiyari village, were raped by police on April 12, 1988. Before this incident, there had apparently been tension between the police and the villagers; the latter opposed a plan to take over land belonging to one of them. The villagers believed that the landowner asked the police to take action against them for the purpose of intimidating them. Two weeks after the rapes took place, the officer in charge and two constables were suspended for their involvement in the incident.

However, no further word has been received whether any charges were lodged against these policemen.

In another incident in Bihar, Mrs. Kaushalya Devi, and her daughter, both of Tarwadih village, were allegedly raped by local Rajput landlords. Mrs. Devi is the wife of a local schoolteacher who had apparently been in conflict with the landlords after refusing them free use of his cows. The local government, despite its knowledge of this incident, has not instituted any criminal proceedings against the accused landlords nor has there been an official inquiry into the incident.

2. Government complicity in the rape of female detainees

Article 3 of the convention calls on governments to ensure that women may exercise and enjoy human rights and fundamental freedoms on a basis of equality with men. Women should receive the same fundamental protections for exercising their human rights as other inhabitants of a country. However, some governments do not consider rape, sexual assault, and sexual abuse as serious a crime as other types of physical assaults. This is particularly alarming when the perpetrators of the rape are government officials charged with protection of the public; i.e., the police, security forces, military personnel, or other government agents.

Some of the most thorough AI documentation available covering "custodial rape" is from Peru and India. In India, around 1,000 of the women officially estimated to have been raped by police come from the most underprivileged groups: the scheduled castes and the tribal communities. Rape allegations against police officers are rarely investigated and even more rarely result in convictions.

In February 1988, five women were raped by police carrying out a raid in Pararia village in the state of Bihar. Apparently police raided the village in retaliation for a dispute between one policeman and a villager. The five women who were raped were admitted to a hospital afterward. Subsequently, a judge ordered that 14 police involved be suspended and a case was brought in which 8 were charged with "wrongful confinement using force" and the others were charged with "mass rape."

On March 12, 1989, a special court acquitted the eight accused of mass rape on a technical point. The others were convicted of the lesser charge and received 1 year sentences, but were released immediately as they had already served 1 year awaiting trial. The judge in this case discounted the evidence of one of the rape victims saying that the position in which she alleged she had been raped "was inconceivable" and when a second victim became distraught and cried in court, the judge also found that this behavior cast doubt on her testimony. The judge characterized the victims as women engaged in "menial work who were of questionable character."

In Peru, women of all ages living in the emergency zones risk rape and sexual abuse by members of the military who are in political as well as military control off these provinces. Rape threats have been made against the wives and daughters of community leaders in order to prevent the continuation of their activities. Members of the security forces appear to be entirely free to abuse women in the course of counterinsurgency operations. Rape by troops is widespread and AI is unaware of any convictions for this crime in the emergency zones. Peruvian officials told AI representatives visiting Ayacucho in 1986 that rape was to be expected when troops were based in rural areas, that it was somehow "natural" and that prosecutions could not be expected. No government would make such a statement about other forms of torture and the same standards should apply to forms of gender-specific torture such as rape.

3. Children raped in custody

Amnesty International has also documented the rape of female children in detention. There are cases where children as young as 3 years old have been raped. Iris Yomila Reyes Urizar, the 15-year-old niece of a Guatemalan human rights activist, was reported raped in custody of the armed forces in February 1989. The girl escaped her captors and family members denounced the incident to the justice of the peace who ordered her examined by a forensic doctor. The doctor confirmed that the girl had been raped. In Turkey, 16-year-old Saadet Akkaya was arrested in April 1988. She testified that she was tortured by being hung from a cross and given electric shocks on her fingertips and nipples and then sexually assaulted. On the order of one policeman, she was then removed from the cross and raped by another policeman.

Girls are vulnerable both as females and as children and should be entitled to additional protection. It is essential that additional measures be taken to guard against these abuses. It is essential that allegations of rape be examined seriously by authorities and that the perpetrators be brought to justice.

Other forms of sexual humiliation

Other forms of sexual humiliation targeted primarily at women detainees include fondling by male guards, verbal abuse that is gender-related, threats of rape or other forms of sexual abuse, strip searching and body cavity searching with the intent to humiliate or degrade.

Two women held in Brixton Prison, London, in 1986, were allegedly strip searched virtually every day, sometimes up to three times a day reportedly as a means of degrading and humiliating them. An Amnesty International Report on the Female High Security Unit (HSU) at Lexington Federal Prison in Kentucky, USA, discussed prison conditions that amounted to cruel, inhuman, and degrading treatment. Treatment in the HSU was deliberately oppressive; it included the constant use of security chains and repeated strip searching, in excess of security needs, and an almost total lack of privacy and claustrophobic lack of sensory stimuli.

Amnesty International has reports of female detainees in Somalia being raped, sexually assaulted, or sexually humiliated. Some former detainees have testified that they were stripped naked and forced to walk in front of male security officers or male prisoners while being verbally abused. Many of these women are Somali Muslims and were treated in ways intended to be degrading and sacrilegious to their beliefs, such as being forced to bare their heads, arms, and legs in front of men.

Gender-related verbal abuse, fondling, and sexual humiliation of women in detention are regular practices of police and military men in many countries around the world.

Pregnancy, health care, and childbirth in detention

Article 12 of the women's convention calls on governments to ensure appropriate medical services in connection with pregnancy, confinement, and the postnatal period. In addition, the U.N. Standard Minimum Rules for the Treatment of Prisoners requires that special accommodations be made for all necessary prenatal and postnatal care and treatment. In many countries, pregnant prisoners are tortured, ill-treated, and denied adequate nourishment and medical attention which in many cases leads to miscarriage and permanent physical damage.

Debra Marakalla, a human rights activist in South Africa, received no medical attention while hemorrhaging in her cell and was taken to hospital after the miscarriage had already occurred. In El Salvador, Morena Margarita Rivas Quijada, a 25-year-old secretary and student was recently arrested when she was 3 months pregnant. According to her testimony, she was tortured, forced to stand for days with her hands tied over her head, and continually threatened with rape. Her health deteriorated in prison and she gave birth after 6 months to a tiny infant who died a few weeks after birth.

Teresa del Rosario-Castro Caceres, a housekeeper for the staff of the Lutheran World Federation in San Salvador was detained on November 30, 1989. She was held for days at the headquarters of the Treasury Police, where she was raped and beaten. She was 2 months pregnant at the time of her detention and suffered a miscarriage as a result of the torture.

In Somalia, AI has documented several cases of women political detainees who gave birth in prison with little or no medical attention. Their newborn infants were taken from them only a few hours after birth and they did not hear of their fate for years afterward. Safia Hashi Madar, a relief worker, was arrested when she was 9 months pregnant and denied prenatal and postnatal medical treatment. As a result of the combination of torture and the lack of medical attention in the late pregnancy period, she suffered severe kidney infection, malnourishment, and gynecological complications. The authorities refused to give her any medical treatment or to allow her family to provide it.

Teenage mothers of newborn babies in Brazilian jails suffer yet another form of cruelty to themselves which also endangers the lives of their newborn children. The babies are purposely taken away from the nursing mothers with the intention of causing prolonged pain to the mothers. In Iran, babies have been taken from their mothers and denied milk. Their screams caused the mothers mental anguish as well as physical pain.

In other cases, children suffer severe physical damage due to ill health and lack of medical care in prison. In Ethiopia, Namat Issa was arrested in 1980 when she was 7 months pregnant. She gave birth to a son, Amonsissa, in prison. Her son caught a virus infection in 1983, possibly cerebral meningitis, which went untreated and resulted in brain damage and mental retardation.

Protection needed for rural women

AI has documented serious human rights violations against rural women in general and rural women who are activists in particular. Article 14 of the women's convention calls on governments to take into account the particular problems faced by rural women "and to take all appropriate measures to ensure that rural women benefit from the opportunity to organize self-help groups and cooperatives, and to participate in all community activities."

In Peru, in addition to the alarming example mentioned earlier of the apparent freedom of the military to rape and sexually abuse women in Peru's rural emergency zones, AI has documented other kinds of human rights violations against rural women. In this largely agricultural society all hands are needed to gain a living from the land. An estimated one-third of rural women are widowed and many more displaced. Few men between the ages of 14 and 40 remain in the conflict areas. Responsibility for working the land, caring for livestock, maintaining the home, and bringing up their families rests largely with the women.

Women find themselves carrying out these activities in a climate of violence and fear. They are responding to the challenge by working together to set up various kinds of support groups for training in health, literacy, vocational skills, marketing and buying cooperatives for agricultural work, and for community kitchens. It is ironical that as a consequence of their activities in establishing self-help centers to protect and promote their rights, the members of these organizations risk becoming targets of the security forces.

Consuelo Garcia, leader of a miners wives' training organization was found dead on the outskirts of Lima in February 1989. In that same month, Cecilia Olea, a member of the Flora Tristan women's group, which provides legal and social assistance to working women, received death threats. Two women working at the women's home in Chimbote, which was founded to assist and advise women, were detained by police in July 1988. They were accused of involvement in subversive activities. One was released after 2 months, but the other remained in detention, where she was abused and tortured until May 1989.

In the indigenous communities of Guatemala, widows and "disappeared" relatives have formed various groups to report human rights abuses, and to obtain concrete assistance from the government for families of victims of human rights violations. One such group, CONAVIGUA, is attempting to obtain compensation and financial assistance for widows whose husbands were killed in army counterinsurgency campaigns in the late 1970's and 1980's. In October 1988, AI expressed concern for the safety of Juana Calachij Mendez, who suffered death threats, harassment, and two kidnap attempts because she reported the existence of a clandestine cemetery near her village, Pacoc, Department of El Quiche, and campaigned for the exhumation of five peasants, including her husband, who had been buried there in 1984, allegedly killed by members of the local Civil Defense Patrol.

CONCLUSION

These are but a few examples of the issues and cases of concern to Amnesty International which are addressed by the women's convention. Amnesty International works to promote human rights through adherence of states to international human rights treaties. The women's convention is an important instrument of international law as it provides a framework for defining and promoting women's rights as well as a means to eradicate discriminatory practices or laws that violate the human rights and fundamental freedoms of women.

Reasons for the United States to ratify the women's convention

The United States should welcome the opportunity to take part with other countries in undertaking measures to alleviate discriminatory practices that violate the human rights of women. The United States is to be commended for taking an active role in formulation of the convention and has little to fear from the minimum standards that are set by the convention. The United States should be prepared to conform to the same standards as other countries and to a system of accountability for progress in meeting these standards.

If the United States ratifies the convention it will have the opportunity to sit on the Committee on the Elimination of Discrimination Against Women (CEDAW), the monitoring body of the women's convention. Participation in CEDAW proceedings is critical to the development of standards and procedures to review country actions for the effective implementation of the convention. The United States could continue its leadership role in the development of the convention through participation in the committee.

In ratifying the convention, the United States will join with the 103 nations who have ratified it thereby enhancing the weight of the convention and eliminating an embarrassing political situation for the United States internationally. Through ratification the United States can work toward strengthening international law and mechanisms for promoting and protecting women's human rights and make clear its commitment to achieve the goals of the convention to eliminate discrimination against women.

PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

The American Association of University women (AAUW) would like to thank the Senate Foreign Relations committee for conducting hearings on the United Nations Convention on the Elimination of All Forms of Discrimination Against women (CEDAW). We appreciate the opportunity to share our support for this important human rights treaty with the committee and request that our testimony be submitted into the committee record.

For more than a century, the American Association of University women (AAUW) has promoted education and equity for women and girls. AAUW's 135,000 university-graduate members in over 1,800 rural, urban, and suburban communities nationwide support the ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. AAUW is committed to achieving equity for women by the year 2000, and continues to strengthen networking and community action to promote individual liberties and human rights for all.

AAUW recognizes that obstacles to women's individual liberties exist throughout the world, and that efforts to achieve women's equality cannot take place solely in a domestic arena. As the 1990's begin, the world is rapidly changing from isolated nation-states into an interrelated, interdependent world—a world in which women and girls continue to be defined more by their reproductive capacity than their productive value.

AAUW is dedicated to the advancement of women's rights worldwide and all components of AAUW's work have an international focus. Our membership in the International Federation of University Women (IFUW) provides us with a forum to communicate and collaborate with women across national boundaries. AAUW's Educational Foundation awards international fellowhips to women from around the world with outstanding academic ability. AAUW's programs and public policies link global issues with local concerns. As part of its promoting individual liberties issue, AAUW advocates that women's rights be addressed in all human rights struggles, national and international.

Mobilized by the United Nations Decade for Women (1975–85), women around the world are working to overcome obstacles and dismantle institutional barriers that hinder their full equality and participation in society. In many countries in Asia, Africa, and Central America, women do not have even basic human rights—access to water, food, shelter, and primary health care rights that many people take for granted. Many women in the United States also suffer from inadequate health care, housing, and nutrition. And, throughout the world, women struggle for greater access to education, employment, and political participation.

AAUW supports the work of the United Nations and its affiliated agencies. During the Decade for Women, the U.N. Commission on the Status of Women and the U.N. Branch for the Advancement of Women began to play a more significant role in the United Nations agenda. Several international institutions were created to advance the status of women worldwide, including the United Nations Development Fund for Women (UNIFEM), the U.N. International Research and Training Institute for the Advancement of Women (INSTRAW) and the U.N. Convention on the Elimination of All Forms of Discrimination.

During the 34th session of the United Nations Commission on the Status of Women, representatives conducted a 5-year review of the "Nairobi Forward-Looking Strategies for the Advancement of Women (FLS)." In 1985 during the U.N. End-Decade World Conference for Women in Nairobi, Kenya, the FLS was adopted as a consensus document by 157 countries including the United States. It is a set of guidelines and strategy directives to improve the status of women by the year 2000. The commission reported that 5 years after the Nairobi conference, obstacles to implementation of FLS remain. "Although the continued efforts of women throughout the world to achieve equality, development, and peace have begun to take effect at the grassroots level," the report said "their efforts have yet to be translated into improvements in the daily lives of women."

The U.N. Convention on the Elimination of All Forms of Discrimination Against women is the international bill of rights for women. It is the first international human rights convention that specifically focuses on the rights of women as human rights. This aspect of human rights has been missing from the human rights agenda. One hundred and three countries have ratified this comprehensive framework that establishes international principles and strategies for achieving equality between women and men. The convention calls for action in every field of human rights: politics, law, employment, education, health care, commercial transactions, and domestic relations.

The convention defines discrimination as "any distinction, exclusion, or restriction made on the basis of sex, which has the purpose or effect of denying equal exercise of human rights and fundamental freedoms in all fields of human endeavor." It seeks to eliminate sex-role stereotypes; promote equal access to education, health care, and family planning; and calls for government to abolish all existing laws, customs, and regulations that discriminate against women.

When the convention is ratified, the United States will be eligible to participate in the U.N. Committee on CEDAW. This committee is made up of 23 members who are nominated and elected by participating governments every 4 years. The United States, with its positive human rights record, could greatly support the women of the world as a leader on this committee.

Human rights struggles take different forms in different countries, but the goals are the same: individual liberty and full equality of opportunity. To secure individual liberties, we must mobilize resources to educate and empower women to make choices in their own lives, and to include women in the overall decisionmaking and implementation of policies. Women have rights, and their rights include an end to all forms of discrimination—in the family, in society, or under the law. Women's rights are human rights.

AAUW believes that the U.N. Convention on the Elimination of All Forms of Discrimination Against Women is an important initiative that promotes the individual and collective rights of women and girls at home and abroad. AAUW has been a strong supporter of this document since it was passed by the United Nations in 1979. We have been disappointed with the Reagan and Bush administrations' lack of commitment to women's rights and to the ratification of this human rights treaty.

On the 10th anniversary of the U.N. passage of the convention, women worldwide recognized the work of the United nations to remove the barriers women face. Support for the U.N.'s efforts is critical to the advancement of women and the elimination of gender-based discrimination throughout the world. We urge the committee and the Bush administration to ratify the U.N. Convention on the Elimination of All Forms of Discrimination Against Women. We hope that when we attend the 1995 U.N. World Conference for Women we can be proud of our country's efforts to protect women's rights as human rights.

PREPARED STATEMENT OF THE RELIGIOUS NETWORK FOR THE EQUALITY FOR WOMEN

The Religious Network for Equality for Women (RNEW) is a coalition of 40 Protestant, Catholic, Jewish, and other faith groups who have made a commitment to economic justice for women and who have banded together to collaborate on education and advocacy.

RNEW's present focus is the economic rights and security of all women, but especially those most vulnerable: single parents, low-income women, women of color, and the aged. RNEW works for specific public policy changes, nationally and at the State level, and develops educational materials to assist local women to understand and organize around the economic issues that affect them. A major focus of the organization is the protection of women's rights.

Obviously, RNEW strongly supports the U.N. Convention on the Elimination of All Forms of Discrimination Against Women. As the convention makes clear "* * * that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic, and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity * * *"

RNEW urgently requests that the U.S. Senate ratify the convention.

PREPARED STATEMENT OF THE QUIXOTE CENTER

The Quixote Center is a national, Catholic-based justice center located in Mt. Rainier, MD, near Washington, DC. We have a national network of 50,000 people concerned with basic issues of justice, peace, and equality.

Ever since its founding, the Quixote Center has advocated the full equality of women and men in both civil society and the Roman Catholic Church. We base our beliefs on the gospel which calls us most profoundly to love one another. Such love, we believe, is impossible without respect—individually and societally—for the fundamental dignity and equality of all human beings regardless of gender. The *Letter to the Galatians* said it most succinctly: "* * * in Christ, there is no male nor female." (Gal. 3:28).

The Second Vatican Council of the Roman Catholic Church, in the document, *The Church in the Modern World*, said: "* * * all forms of discrimination * * * based on sex * * * are to be overcome and eliminated as contrary to Cod's intent." (No. 29). Although the institutional church has been slow to implement this teaching, it nonetheless stands as official policy.

In light of these principles, as well as our own democratic ideals of equality in the United States, we urge the Senate to ratify without delay the United Nations Convention on the Elimination All Forms Discrimination Against Women.

[The Washington Post, Aug. 23, 1990]

FOR FEMALE SOLDIERS, DIFFERENT RULES

(By Molly Moore)

AN AIRBASE IN SAUDI ARABIA, Aug. 22.—After a grueling, hot, dusty day on the edge of the busiest military airstrips in Saudi Arabia, U.S. Air Force Lt. Col. Lois Schwartz would like nothing better than to relax the way she would back home: shopping, but in this case at the small arcade across the steamy street from the schoolhouse-turned-barracks where she bunks.

But in this society, where Arab women often see the world from behind black veils, Schwartz, like other women among the American troops deployed to Saudi Arabia, cannot take her sandy clothes to the laundry or even buy a bar of soap at a store. She can run errands only if escorted by a male who must pay for her toiletries while she stands nearby, eyes focused on the floor to avoid offending Arab shopkeepers.

"It's frustrating," said Schwartz, who runs the Air Force 1st Tactical Fighter Wing's field hospital at this airbase, the location of which cannot be named under U.S. military rules. "We work long hours, it's hot, and we can't even have the release of going across the street to the store."

For many Arabs here, the independence and lifestyle of American military women seem perplexing and sometimes disconcerting. And for American military women, who are used to struggling for rank and status in a male-dominated institution, the restrictive Arab culture is an added strain in an already austere environment.

Deferring to Arab sensibilities can be nothing more than a minor irritation, but at other times it can be oppressive. For example, when desert temperatures soar above 120 degrees, the men strip off their heavy battle fatigue jackets and work in their T-shirts. But the women smother; they must continue to wear their desert jackets—fully buttoned—as well as T-shirts underneath.

The U.S. military obtained special permission from the Saudis to allow its many women drivers to operate trucks and forklifts in a culture that forbids women to drive.

The Saudis recently agreed to allow the 100 women of the airlift hospital to use, for a few hours each week, the gymnasium in the school where they are housed. But the gym is closed to men during these periods, and the women—even while swimming—must wear loose-fitting blouses and knee-length shorts.

Male and female Army troops sleep in the same tents during military exercises in the United States, Germany, and elsewhere, but here the sexes are strictly segregated.

At an Army staging base on the edge of the airfield, most of the women troops—truck drivers, intelligence specialists, communications technicians, and others—are housed in an unused Saudi military building, while men sleep in a tent city pitched in the nearby desert. When women soldiers are assigned to tents, they are kept segregated from the men, a base official said.

11We're just used to being so free," said a 21-year-old dental technician working at the field hospital. "We don't know where the rules are coming from. We get very mixed signals."

Women in the hospital unit say, for example, that while some shopkeepers will not allow them to enter stores without their heads covered, other merchants seem oblivious to bare heads.

And many of the women here have had conflicting reactions from Arab men.

A woman captain assigned to an airlift support unit in the neighboring United Arab Emirates said Saudi soldiers she has met have been curious but polite in their dealings.

"They start a lot," she said. "But they treat us very well—better than a lot of American men."

But Schwartz does not share that view. "The men don't like to speak with us," she said. "They have trouble dealing with women."

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